

# **ZONING ORDINANCE FOR GOFFSTOWN, NEW HAMPSHIRE**

**As Amended March 11, 2003**



**2002 - 2003**

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**2002 - 2003**

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## GLOSSARY

### Word Usage

For the purpose of this Ordinance, certain terms and words shall have the meaning given here. Words used in the present tense include the future; the singular number includes the plural, and the plural includes the singular; the words "used" or "occupied" include the words "designed", "arranged", "intended" or "offered" to be used or occupied; the words "building", "structure", "lot", "land" or "premise" shall be construed as though followed by the words "or any portion thereof"; the word "may" is permissive; and the word "shall" is always mandatory and not merely directory.

### Words and phrases not defined

Words and phrases not defined in this Glossary shall have their common dictionary meaning.

### Definitions of terms

Certain terms or words shall be defined and interpreted as follows:

**Abandonment**- The cessation of a use as indicated by the visible or otherwise apparent intention of an owner to discontinue a use of a structure or lot; the removal of the characteristic equipment of furnishings used in the performance of the use, without its replacement by similar equipment or furnishings; or the replacement of a use or structure by a different use or structure.

**Abutter** - Any person whose property is located in New Hampshire and adjoins or is directly across the street or stream from the land under consideration by the local land use board. For purposes of receipt of notification by a municipality of a local land use board hearing, in the case of an abutting property being under a condominium or other collective form of ownership, the term abutter means the officer of the collective or association as defined in RSA 356-B, XXIII.

**Accessory Building** - A building on the same lot with, and of a nature incidental and subordinate to, the principal building.

**Accessory Use** - A subordinate use of land or building which is customarily incidental to the principal use of the land and which is located on the same lot with the principal use.

**Active and Substantial Development** - The construction of permanent physical appurtenances to the site, such as, but not limited to, footings, streets, and water and sewer lines.

**Acre** - A measure of land containing forty-three thousand five hundred sixty square feet (43,560 s.f.)

**Adult Video/Book Store** - A commercial establishment which, as one of its principal business purposes, offers for sale or rental for any form of consideration any one or more of the following:

- Books, magazines, periodicals or other printed matter, or photographs, films,



motion picture, video cassette or video reproductions, slides, or other visual representations which depict or describe (1) “specified sexual activities” or (2) “specified anatomical areas”; or

- Instruments, devices, or paraphernalia, which is designed for use in connection with “specified sexual activities.” A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing “specified sexual activities” and still be categorized as “Adult Video/Book Store”. Such other business purposes will not serve to exempt such commercial establishment from being categorized as an “Adult Video/Book Store” so as long as one of its principal business purposes is offering for sale or rental for consideration to specified material which depict or describe “specified sexual activities” or “specified anatomical areas”.
- Specified sexual activities - means the male genitals in a state of sexual arousal and /or the vulva or more intimate parts of the female genitals.
- Specified anatomical areas - means and includes any of the following:
  - The fondling or other erotic touching of the human genitals, pubic region, buttocks, anus, or female breasts;
  - Sex acts, normal or perverted, actual or simulated, including intercourse, or copulation, or sodomy;
  - Masturbation, actual or simulated; or
  - Excretory function as part of or in connection with any of the activities set forth above.

**Adult Motion Picture Theater** - A commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly shown which are characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas” as defined in this Glossary under Adult Video/Bookstore.

**Adult Theater** - A theater, concert hall, auditorium, or similar commercial establishment which regularly features persons who appear in a state of nudity or live performances which are characterized by the exposure of “specified anatomical area” or by “specified sexual activities” as defined in this Glossary under Adult Video/Bookstore.

**Alteration** - Any change, addition, removal, or modification construction or use.

**Basement** - Any portion of the building, at least partly below grade, which has more than one-

half (1/2) of its height, measured from finished floor to finished ceiling, above the average finished grade of the ground adjoining the building. A basement is not considered a story unless its ceiling is six feet (6') or more above the finished grade.

**Berm** - A mound of soil, either natural or man-made, used to obstruct views.

**Billboard** - A sign that identifies or communicates a commercial or non-commercial message related to an activity conducted, a service rendered, or a commodity sold at a location other than where the sign is located.

**Breakaway Wall** - A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral forces without causing damage to the elevated portion of the building or supporting foundation.

**Buffer** - Any combination of materials, whether portable or affixed to the ground, used for the sheltering, housing, or their enclosure of persons, animals, chattels, property, or materials of any kind. Such "building" shall include open porches, open breezeways, and any other roofed areas.

**Building** - Any structure having a roof and intended for the shelter, housing or enclosure of persons, animals, or chattel. The word "building" includes the word "structure". The term building shall include structures of permanent or temporary construction, plastic and canvas covered frame structures, structures installed on skids, blocks or a permanent foundation, and all sheds and storage facilities.

**Building Code Enforcement Officer** - The person designated by the governing body to enforce municipal codes and regulations regarding the construction, alteration, repair, removal and/or demolition of, or addition to, any building or structure. See Section 15.6 of this Ordinance.

**Building Coverage** - The area of the lot or site that is covered by buildings.

**Building Height** - The vertical height from the sidewalk at the center of the front of the building to the highest point of the roof surface, if a flat roof; to the deck line for mansard roofs; and to the mean height level between eaves and ridges for gables, hip, and gambrel roofs. For the buildings set back from the street line, the height shall be measured from the average elevation of the finished grade along the front of the building.

**Building Inspector** – See Building Code Enforcement Officer.

**Capital Facilities Fee** – A fee or assessment imposed upon development, including subdivisions, building construction, or other land use change, in order to help meet the demands occasioned by that development for the construction or improvement of public capital facilities.

**Certificate of Occupancy** - A statement signed by the Enforcement Officer, setting forth either that a building or structure complies with this ordinance or that a building, structure or parcel of land may lawfully be employed for specific uses, or both.

**Church** - A building and/or other structures used principally by a body or organization of religious believers to regularly assemble for worship.

**Commercial Recreation** - A recreation facility operated as a business and open to the public for a fee. It shall include places of amusement such as bowling alleys, miniature golf courses, and similar type establishments.

**Community Wastewater Systems** - A non-municipal wastewater supply system that serves an average of at least twenty-five (25) individuals daily year-round or that has at least fifteen (15) service connections.

**Community Water Supply** - A non-municipal water supply system that serves an average of at least twenty-five (25) individuals daily year round, or that has at least fifteen (15) service connections. A shared well servicing twenty-five or less individuals daily year-round, or that has at least five (5) but not greater than fourteen (14) service connections.

**Condominium** - A horizontal or vertical (or both) subdivision of property that provides a system of individual fee ownership of units in a multi-unit property and joint ownership of the common areas of the property.

**Code Enforcement Officer** - The person delegated by the Board of Selectmen to enforce the provisions of this Ordinance.

**Day Care Home** - Private homes in which any number of the provider's own children, whether related biologically or through adoption, and up to three (3) additional children are cared for regularly for any part of the day, but less than 24 hours, unless caregiver elects to be licensed. As per RSA 170-E.

**Development** - Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

**Dormitories** - A building that is owned and/or is operated by an educational institution whose primary purpose is to provide living accommodations for individuals associated, teaching or attending the institution.

**Driveway** - A space located on a lot, built or used for vehicular access by automobiles or trucks to a garage, parking space or service area.

**Duplex** - A two-family dwelling, a building containing two dwelling units constructed on a single lot.

**Dwelling** - A building designed or used as a place of residence for one or more families.

**Dwelling Unit** - A dwelling or portion thereof designed for use by one family for residential purposes and containing cooking facilities.

**Earth, Earth Products** - The term “earth” shall include topsoil (loam), sand, gravel, and clay taken from the land.

**Excavation** - A land area, which is used, or has been used, for the commercial taking of earth.

**Family** - A group of individuals, whether or not related, living together in a dwelling unit in a structured relationship constituting an organized housekeeping unit.

**Family Day Care Home** - An occupied residence in which child care is regularly provided for less than 24 hours per day, except in emergencies, for up to six (6) children from one or more unrelated families. The six (6) children shall include any foster children residing in the home and all children who are related to the caregiver except children who are 10 years of age or older. As per RSA 70-E.

**Family Group Day Care Home** - An occupied residence in which child day care is provided for less than 24 hours per day, except in emergencies, for seven (7) to twelve (12) children from one or more unrelated families. The twelve (12) children shall include all children related to the caregiver and any foster children residing in the home, except children who are 10 years of age or older. As per RSA 170-E.

**Farm** - Any parcel of land which is used in raising of agricultural products, livestock, poultry and dairy products, including necessary farm structures and storage of equipment used.

**Highest adjacent grade** - The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

**Floor Area, Gross** - The sum of the areas of the several floors of a building, including areas used for human occupancy in basement, attics, and penthouses, as measured from the exterior faces of the walls. It does not include cellars, unenclosed porches, or attics not used for human occupancy, or any floor space in accessory buildings or in the main building intended and designed for the parking requirements, or any such floor space intended and designed for accessory heating and ventilating equipment. It shall include the horizontal area at each floor level devoted to stairwell and elevator shafts.

**Frontage** - The distance along the lot line dividing a lot from either:

- A public highway, except limited access highways as defined by RSA 230:44 and Class VI highways; or
- A road shown on a subdivision plan approved by the Planning Board pursuant to the subdivision regulations.

**Gasoline Service Station** - A retail place of business engaged in supplying goods and services essential to the normal operation of automobiles, such as dispensing of automotive fuel and motor oil, vehicle washing and lubrication services, rental of trailers or equipment, and sales of merchandise not accessory to the motor vehicle. It shall not include body or fender work, painting, or major automobile repairs.

**General Service or Repair Establishment** - A commercial establishment, the primary concern of which is the rendering of service and repair activities on equipment and appliances rather than the sale of goods. Such establishments include but are not limited to: watch, clock, radio, television, home appliances and bicycle repair.

**Governing Body** - The Goffstown Board of Selectmen

**Grade** - With reference to a building or structure, the average elevation of the ground adjoining the building or structure on all sides.

**Group Child Day Care Center** - Means either a full day or half-day child care facility (whether or not the facility is known as a Nursery School, Kindergarten, Cooperative, Child-Development Center, Day Care Center, Center for the Developmentally Disabled, Progressive School or by any other name), by which services are regularly provided for any part of the day, but less than 24 hours, to thirteen (13) or more children. As per RSA 170-E.

**Historic Structure** - Any structure that is:

- Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- Certified or preliminarily determined by the Secretary of the Interior as contributing to the historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- Individually listed on a state inventory of historic places in states with historic preservation programs that have been approved by the Secretary of the Interior; or
- Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program as determined by the Secretary of the Interior; or directly by the Secretary of Interior in states without approved programs.

**Home Occupation** - An occupation conducted entirely within the dwelling unit and customarily incidental and secondary to the use of the structure for dwelling purposes and which does not

adversely affect or undermine the residential character of the neighborhood. Examples of “home occupations” include but are not limited to: seamstress, hairdresser, lawyer, tutor, musician, photographer, antique dealer, architect or engineer.

**Homeowners Association** - A private nonprofit corporation, association, or other nonprofit legal entity under the laws of the State of New Hampshire established by the developer to provide for the ownership, care, and maintenance of common open space lands and site improvements.

**Hotel/Inn** - A building for more or less temporary occupancy by individuals who are lodged with or without meals, having five or more guest rooms in which no cooking facilities are provided and where guests are required to register.

**Junk** - Waste or discarded material, which may be treated or prepared to be used again in another form.

**Junk Yard** - A lot, land or structure, or part thereof, used primarily for the collecting, storage and sale of waste paper, rags, scrap metal or discarded material.

**Junk Yard, Motor Vehicle** - Any business and any place of storage or deposit, whether in connection with another business or not, which has stored or deposited two or more unregistered motor vehicles which are no longer intended or in condition for legal use on the public highways, or used parts of motor vehicles or old iron, metal, glass, paper, cordage, or other waste or discarded or second-hand material which has been a part, or intended to be part of any motor vehicle the sum of which parts, or material shall be equal in bulk to two or more motor vehicles. Motor vehicle junkyard shall also include any place of business or storage or deposit of motor vehicles purchased for the purpose of dismantling the vehicles for parts or for use of the metal for a scrap where it is intended to burn material, which are parts of a motor vehicle or cut up the parts thereof.

**Landscape Plan** - A drawing specifying precise landscaping and planning details including but not limited to utility fixtures, ground covering, site or street furniture, and a schedule of plantings, showing location, type and size of all new and existing plantings, and descriptions.

**Legislative Body** - The Goffstown Town Meeting

**Loading Space, Off-Street** - An off-street space or berth for the temporary parking of commercial vehicles for loading or unloading merchandise or materials.

**Lodging House** - A building in which more than two but not more than nine guest rooms are offered, without meals, for lodging for compensation.

**Lot** - A lot is a registered or recorded parcel of land, fronting at least fifty (50) feet on a street, occupied or capable of being occupied by one building or use and the building or uses accessory thereto, including such open spaces and yards as are required by this ordinance. A lot may or may not be the land shown or described as a lot on a recorded deed or plan. The word “lot”

includes the words “plot” and “parcel”.

**Lot of Record** - Land designated as a separate and distinct parcel in a legally recorded deed and plan filed in the records of Hillsborough County, New Hampshire.

**Lot Line, Front** - The line separating any lot from the street.

**Lot Line, Rear** - A lot line which is opposite and most distant from the front lot line, in the case of a triangular or irregular lot, a line ten (10) feet long within the plot, parallel to and farthest from the front lot line.

**Lot Line, Side** - Any lot line not a front or rear lot line.

**Lot Width** - The horizontal distance parallel to the front lot line measured between the side lot lines at the front building line.

**Lowest Floor** - The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements.

**Manufactured Home Park** - A tract of land which is intended to be used for the purpose of supplying to the public, spaces for two or more manufactured homes in accordance with the requirements.

**Manufactured Home Subdivision** - A subdivision where only manufactured homes shall be placed.

**Manufactured Home** - As defined in RSA 674:31, any structure, transportable in one or more sections, which, in the traveling mode, is eight (8) feet or more in width and forty (40) feet or more in length, or when erected on site, is three hundred twenty (320) square feet or more, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to required utilities, which includes plumbing, heating and electrical heating systems contained therein. Manufactured housing as defined in this section shall not include pre-site built housing as defined in RSA 674:31-a.

**Maximum Seating Capacity** - The actual seating capacity of an area based upon the number of individual fixed seats, or based on one seat per eighteen (18) inches of bench or pew length. For other areas where seats are not fixed, the seating capacity shall be determined in accordance with the BOCA Code.

**Membership Club** - A social, sports, or fraternal association or organization used exclusively by members and their guests and not conducted as a gainful business.

**Motel** - A building or group of buildings having five or more guest rooms intended to be used principally by automobile transients, with or without meals, for compensation and where guests are required to register. "Motel" includes tourist courts, motor lodges, or cabins.

**Multi-Family** - A building containing three (3) or more dwelling units, or a group of two (2) or more buildings containing at least two (2) dwelling units per building.

**Municipal Wastewater Systems** - A wastewater collection, treatment, and disposal system that serves an average of at least twenty-five (25) individuals daily year-round or that has at least fifteen (15) service connections and that is owned and operated by a municipal or regional government.

**New Development** - An activity which results in:

- (a) The creation of a new dwelling unit (except for the equal replacement of existing units);
- (b) A net increase in the gross floor area of any nonresidential building; or
- (c) The conversion of a legally existing use to another permitted use if such change or use would create a net increase in the demand for public capital facilities, as defined by this Ordinance.

**Non-Conforming Structure or Building** - A structure or building the size, dimensions, or location of which was lawful prior to the adoption, revision, or amendment to a zoning ordinance, but which fails by reason of such adoption, revision, or amendment, to conform to the present requirements of the zoning district

**Non-Conforming Use** - A use or activity which was lawful prior to the adoption, revision, or amendment of a zoning ordinance, but which fails, by reason of such adoption, revision, or amendment, to conform to the present requirements of the zoning district.

**Non-Conforming Lot** - A lot, the area, dimensions, or location of which was lawful prior to the adoption, revision, or amendment to a zoning ordinance, but which fails by reason of such adoption, revision, or amendment, to conform to the present requirements of the zoning district

**Nursery School** - A building used principally, or as an accessory use to a dwelling for pre-elementary, non-public education, where there exists a curriculum and teacher to provide an educational program for children.

**Nursing Home** - Any dwelling in which 3 or more aged, chronically ill, or incurable persons are housed and furnished with meals and nursing care for compensation.

**Office** - A portion of building wherein services are performed involving predominantly administrative, professional, or clerical operations.

**Off-Street Parking** - Accommodations for the parking of motor vehicles off of the street,



whether operated for gain or whether privately or cooperatively or publicly established.

**Person** - Any individual, firm, co-partnership, corporation, company, association, joint stock association or body politic, trustee, receiver, assignee, or other similar representative thereof.

**Personal Service Establishment** - A commercial establishment, the primary concern of which is the rendering of a service to persons or individuals, rather than the sale of products. Such establishments include but are not limited to: barber and beauty shops, shoe repair, dry cleaning and laundry services (pickup and delivery only), and tailoring or dressmaking.

**Planning Board** - The Town of Goffstown Planning Board

**Principal Building** - The building occupied by the chief or principal use on the premises. A garage substantially attached to the principal building, as by a roof or common wall, shall be considered as a part of the principal building in computing yard requirements.

**Private Educational Facility** - Any school which is not a public educational facility and is not a nursery school.

**Public Educational Facility** - A building used principally to educate any child of the Goffstown School District, where attendance at such school at the public expense is a right of that child.

**Public Utility** - A public or private company or governmental agency under the regulation of the N.H. Public Utilities Commission, involved in supplying utility services through erection, construction, alteration or maintenance of gas, electrical, communication, steam or water transmission or distribution systems.

**Public Sewerage and Public Sewer** - A sewage disposal system that is constructed and maintained by a municipality and not one privately owned or constructed.

**Recreational Vehicle** - A vehicle which is (i) built on a single chassis, (ii) 400 square feet or less when measured at the largest horizontal projection, (iii) designed to be self-propelled or permanently towable by a light duty truck, and (iv) designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use.

**Residential Care Home** - A facility wherein personal and social services are available to individuals with a minimum of supervision and health care services, and which can be provided in a home or home-like setting in accordance with RSA 151:9, VII, (a), (1) and (2).

**Restaurant** - An establishment that serves food and beverage primarily to persons seated within the building.

**Restaurant, Fast Food** - An establishment that offers quick food service, which is accomplished through a limited menu of items already prepared and held for service, or prepared, fried, griddled or grilled quickly, or heated in a device such as a microwave oven. Orders are not

generally taken at the customer's table, and food is generally served in disposable wrapping or containers.

**Retail** - The sale of goods, merchandise, and products to the ultimate consumer for direct consumption and not for resale.

**Right-of-Way** - A strip of land that is generally used for the location of a street, walkway, utility line, or other access way, that is separate and distinct from the lots and parcels adjoining such right-of-way and not included within the dimensions or areas of such other lots or parcels.

**Setback Measurement** - The setback is measured from the property line or the edge of the right-of-way, if the property line encroaches on the right-of-way.

**Shopping Center** - A group of commercial establishments planned and developed primarily for principal retail uses, and maintained and managed as a business unit.

**Signs** - The following definitions relate to Section 7, Sign Regulations,

**Sign** - Any device that is sufficiently visible to persons not located on the lot where such a device is located, and designed to attract the attention of such persons or communicate information to them about products, accommodations, services, or activities on the lot where the device is located.

**Sign, Building** - Any sign that is attached or affixed to a building including wall signs, projecting signs, canopy signs, marquee signs, and roof signs.

**Sign, Building Marker** - Any sign indicating the name of a building and/or the date and incidental information about the construction of the building, and which sign is made part of, or permanently integrated into, the materials from which the building is constructed.

**Sign, Canopy** - A sign that is a part of, or attached to a canopy, or an awning, or other fabric, plastic, or structural protective cover over a door, window, or outdoor service area.

**Sign, Freestanding** - A self-supporting sign, the supports of which are permanently anchored in the ground and are independent from any building.

**Sign, Marquee** - Any sign attached to or in any manner made part of a permanent roof-like structure projecting beyond the wall of a building.

**Sign, Projecting** - Any sign affixed to a building with the plane of the sign at an angle to the plane of the wall of the building

**Sign, Roof** - Any sign erected and constructed wholly on and over the roof of a building and supported by the roof structure.

**Sign, Wall** - A sign attached to, or erected against the wall of a building with the face of the sign in a parallel plane to the plane of the building wall.

**Site Plan** - A plan showing the location of all buildings, parking areas, abutters, traffic access and circulation drives, open spaces, landscaping and any other pertinent information that the Goffstown Planning Board deems necessary in exercising its review of non-residential, clustered residential development and multi-family dwelling site plans in accordance with RSA 674:43 and 674:44.

**Start of Construction** - includes substantial improvement, and means the date the building permit was issued, provided that actual start of construction, repair, reconstruction, placement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

**Storage Containers** - Storage containers, truck trailers, shipping containers or other similar containers are defined as structures.

**Story** - That portion of a building included between the surface of any floor and the surface of the floor or roof next above. A basement shall be considered as a story for height measurement where more than one-half of its height is above the average level of the surrounding ground.

**Street** - A public thoroughfare, which affords the principal means of access to abutting property.

**Street Line** - The line separating a street from a lot.

**Structure** - Anything constructed or erected, which requires a location on the ground, or attachment to something having a location on the ground; including, but not limited to, free standing signs, billboards, manufactured homes and buildings, but exclusive of customary fences or boundary or retaining walls and landscaping and screening required by the Site Plan Regulations.

**Subdivision** - The division of the lot, tract or parcel of land into two or more lots, plats, sites, or other divisions of land for the purposes, whether immediate or future, of sale, rent, lease, condominium conveyance or building development. It includes re-subdivision and, when appropriate to the context, relates to the process of subdividing or to the land or territory subdivided. The division of a parcel of land held in common and subsequently divided into parts among the several owners shall be deemed a subdivision.

**Substantial Damage** - Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred.

**Substantial Improvement** - Any combination of repairs, reconstruction, alteration, or improvements to a structure in which the cumulative cost equals or exceeds fifty percent of the market value of the structure. The market value of the structure should be (1) the appraised value of the structure prior to the start of the initial repair or improvement, or (2) in the case of damage, the value of the structure prior to the damage occurring. For the purposes of this definition, “substantial improvement” is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. This term includes structures which have incurred substantial damage, regardless of actual repair work performed. The term does not, however, include any project for improvement of a structure required to comply with existing health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions or any alteration of a structure listed on the National Register of Historic Structure, provided that the alteration will not preclude the structure’s continued designation as a “historic structure”.

**Supported Residential Health Care Home** - In accordance with RSA 151:9, VII, (a), (1) and (2), a facility wherein social and health services are available to individuals, as needed, from appropriately trained or licensed individuals, who need not be employees of the facility. The residents of such a facility shall not require nursing services complex enough to require twenty-four (24) hour nursing supervision. Such facilities may also include short term medical care for residents of the facility who maybe convalescing from an illness and these residents shall be capable of self-evacuation.

**Tattoo Parlor** – A commercial establishment, which either as a principal or an accessory portion of its business, provides tattooing or body piercing, or both, except for ears, which are not defined as body piercing.

**Town** - The Town of Goffstown

**Trailers** - The following shall be considered trailers:

- **Camping Trailer** - A folding structure mounted on wheels and designed for travel, recreation and vacation use.
- **Motor Home** - A portable temporary dwelling to be used for travel, recreation, and vacation, constructed as an integral part of a self-propelled vehicle.
- **Pick-Up Coach** - A structure to be mounted on a truck chassis for use as a temporary dwelling for travel, recreation and vacation.

- **Travel Trailer** - A vehicular portable structure built on a chassis, designed as a temporary dwelling for travel, recreation and vacation having body width not exceeding 8 feet and a body length not exceeding 40 feet. Any travel trailer exceeding 8 feet in width and 40 feet in length shall be considered a manufactured home.

**Use** - The purpose for which land or building or structure or a part thereof is arranged, designed, intended, occupied, or maintained.

**Utility Substation** - A building and/or other structure, owned and/or operated by a public or private utility, which is principally used for sheltering, maintaining and/or supporting utility equipment, machinery or the like, including electrical relay or generating, telephone switching, sewage pumping station or the like, but not including gas, electrical, telephone, etc., transmission lines alone.

**Water Supply Works** - Any building and/or other structure used by a public or private utility principally for the supply of water to the public including a filtration plant, pumping station or the like, but not including water transmission lines alone.

**Wetlands** - Those areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal conditions do support, a prevalence of vegetation adapted for life in saturated soil conditions. Wetlands have hydric soils, hydrophytic vegetation, and wetland hydrology, and generally include, but are not limited to, swamps, marshes, bogs, and similar areas.

**Yard** - An unoccupied space open to the sky, on the same lot with a building or structure.

**Yard, Front** - A yard extending the full width of the lot and situated between the street and the front line of the building.

**Yard, Rear** - A yard extending the full width of the lot and situated between the main building and the rear lot line

**Yard, Side** - A yard extending from the front yard to the rear yard and situated between the building and the side lot line. Any lot lines not a rear line or a front line shall be deemed a side line.

**Yard Sale** - Including Barn Sales, Garage Sales, Moving Sales, and all similar sales that are intended for the sale of unwanted, used household type items, which are the homeowner's personal property.

**Zoning Code Enforcement Officer** - The person designated by the governing body to enforce the provisions of this ordinance. See section 15.7 of this ordinance.

## **Section 1 GENERAL PROVISIONS**

### **1.1 Title**

The Ordinance and the accompanying official Zoning Maps shall be known and may be cited as the "Zoning Ordinance of the Town of Goffstown, New Hampshire," and is sometimes referred to herein as the "Ordinance".

### **1.2 Applicability**

#### **1.2.1 General Applicability:**

No building, structure, or improvement shall be erected or used and no land shall be used or subdivided in the Town of Goffstown except in conformance with the Ordinance.

#### **1.2.2 Relationship to other laws, ordinances, and regulations:**

Whenever the provisions of the Ordinance conflict with any other ordinance, statute, or rule, the more restrictive or the higher standard shall apply. In the event of any conflict between any provisions of the Ordinance with other provisions of the Ordinance, the more restrictive or higher standard shall apply.

#### **1.2.3 Relationship to Private and Public Covenants and Restrictions:**

The Ordinance shall not affect restrictions placed on property by covenant, easement, deed, or agreement, provided that where the Ordinance imposes a greater restriction or higher standard, the provisions of the Ordinance shall govern.

### **1.3 Purpose**

The Ordinance is designed and adopted for the following purposes:

**1.3.1** To protect and promote the public safety, convenience, comfort, aesthetics, prosperity, health, and general welfare of the inhabitants of the Town of Goffstown, New Hampshire;

**1.3.2** To secure safety from fires, panic, explosion, noxious fumes, and other such hazards and dangers, and to control and regulate nuisance-producing uses of land;

**1.3.3** To promote adequate light, air, privacy, and convenience of access to property;

**1.3.4** To avoid undue concentration of population, to prevent the overcrowding of land,

and to control and regulate congestion in the streets;

**1.3.5** To facilitate the adequate provision of transportation, solid waste facilities, water, sewerage, schools, parks, child day care, and other public and private facilities and services;

**1.3.6** To assure the proper use of natural resources, to control and regulate pollution of air and water, to protect property from flooding and accelerated erosion, to protect historic and archeological resources, to protect wetlands, and to conserve natural beauty and open space;

**1.3.7** To conserve property values by preventing the harmful encroachment of incompatible uses, and by providing for the control and regulation of those uses which adversely affect the character, development, and value of property; and

**1.3.8** To encourage appropriate and coordinated uses of land, and to allow for planned, orderly, timely and beneficial growth and development as envisioned by the Master Plan.

#### **1.4 Interpretation of Certain Terms**

Certain terms and words used in the Ordinance shall be interpreted in accordance with the definitions contained in the Glossary or otherwise expressly stated herein. All other words used in the Ordinance shall be subject to their customary and ordinary meaning and definition.

#### **1.5 Severability**

It is hereby declared to be the intention of the Ordinance that the sections, paragraphs, sentences, clauses, and phrases of the Ordinance are severable, and if any such section, paragraph, sentence, clause or phrase is declared unconstitutional or otherwise invalid by any court of competent jurisdiction in a valid final judgment or decree, such unconstitutionality or invalidity or unenforceability shall not affect any of the remaining sections, paragraphs, sentences, clauses, or phrases of the Ordinance, and the Ordinance shall thereafter, to the greatest extent allowed by law, be interpreted to give full effect to the intention set forth in the section, paragraph, sentence, clause or phrase so declared unconstitutional or otherwise invalid or unenforceable.

#### **1.6 Effective Date**

The Ordinance, which represents a complete and comprehensive amendment and restatement of the Zoning Ordinance of the Town of Goffstown originally adopted and effective on March 14, 1961 and as thereafter amended on March 13, 2001.

## **Section 2 ZONING DISTRICTS**

### **2.1 Zoning Districts Established**

The Town of Goffstown is hereby divided into the following zoning districts:

#### **2.1.1 Base Districts:**

|      |  |
|------|--|
| R-1  | Medium Density Residential District        |
| R-2  | High Density Residential District          |
| A    | Agricultural District                      |
| CO   | Conservation Open Space District           |
| C    | Commercial District                        |
| I    | Industrial District                        |
| RSBO | Residential Small Business Office District |
| VC   | Village Commercial District                |

#### **2.1.2 Overlay Districts:**

|    |                               |
|----|-------------------------------|
| FH | Flood Hazard District         |
| WC | Wetland Conservation District |
| HI | Historic District             |

### **2.2 Relationship of Overlay Districts and Base Districts**

The Overlay Districts, where applicable are superimposed upon the Base Districts, and the provisions of the Overlay Districts shall be in addition to the provisions of the Base District. Whenever the provisions of the Base District or Overlay District are in conflict, the more restrictive provisions shall apply.

### **2.3 Purposes of the Established Base Districts**

The Base Districts are established for the following purposes:

**2.3.1** Medium Density Residential District (R-1) - The R-1 District is established to accommodate existing and future residential development at medium densities, together with educational, institutional, and recreational uses, in areas where municipal utilities are present or anticipated.

**2.3.2** High Density Residential District (R-2) - The R-2 District is established to encompass the substantially developed neighborhoods consisting of residential development at high densities, together with educational, institutional, and recreational uses, in an area where municipal utility services are available or anticipated.



**2.3.3 Agricultural District (A)** - The A District is a mixed-use district established to accommodate residential developments at low densities in rural settings, together with agricultural, forestry, outdoor recreational and other compatible uses where municipal utilities may not be present or anticipated.

**2.3.4 Conservation and Open Space District (CO)** - The CO District is established to conserve natural resources, wildlife habitat, and open space; to protect watersheds and water supplies; and to prohibit the improper development of steep slopes, land subject to periodic flooding, and other environmentally sensitive areas the development of which may be imprudent, costly, burdensome to the Town, or contrary to the character of the subject property; and to allow for compatible low density residential uses.

**2.3.5 Commercial District (C)** - The C District is established to provide for commercial, service, and similar uses, in areas which are, or anticipated to be, served by municipal utilities, and where access is available from arterial and collector streets. The C District is intended to encourage commercial and service uses to the mutual advantage of both consumers and merchants, thus promoting public convenience and prosperity.

**2.3.6 Industrial District (I)** - The I District is established for the development of manufacturing, construction, research and development, wholesaling, warehousing, distribution and similar uses.

**2.3.7 Residential, Small Business and Office District (RSBO)**- The RSBO District is established in areas wherein residential, personal service, office, commercial and other compatible uses at a scale and in a manner that will properly balance traffic, congestion, visual conflicts, light, noise, and other impacts associated with higher density mixed use development.

**2.3.8 Village Commercial District (VC)**- The VC District is established to allow for the development of the Village section of Goffstown with a harmonious mix of commercial, residential, civic, and recreational uses while promoting pedestrian movement and the preservation of historic structures. The intent of the VC District is to preserve the Village area as a focal point for the personal, business, religious, and civic needs of the community while allowing for growth at a scale and intensity consistent with a village setting.

## **2.4 The Zoning Map**

The Zoning Map shall consist of a set of maps including the Zoning Base District Map and certain Overlay District Maps, the originals of which shall be kept in the office of the Town Clerk, and shall bear the Town Seal.

### **2.4.1 The Zoning Base District Map**

The Zoning Base District Map shall display the boundaries of all of the Base Districts.

#### **2.4.2 The Zoning Overlay District Maps**

The Zoning Overlay District Maps are a series of topical maps displaying certain, but not all, of the Overlay Districts, including:

**2.4.2.1** Flood Hazard District (FH) - The Flood Insurance Rate Map (FIRM), and the Flood Boundary and Floodway Map (Floodway Map), for the Town of Goffstown, New Hampshire - Hillsborough County, as published by the Federal Emergency Management Agency, with an effective date of June 15, 1979; and

**2.4.2.2** Historic District (HI)- The Historic District Map displaying the limits of lands that are subject to the provisions of the HI District as specified in Section 13.4, Historic (HI) District.

#### **2.4.3 Amendments to the Zoning Map**

Amendments to the Zoning Map shall be considered and accepted in accordance with the provisions of Section 16, Amendments, of the Ordinance.

### **2.5 Interpretation of District Boundaries**

The location of district boundaries shall be as shown on the Official Zoning Maps or as otherwise described in the Ordinance. Where any uncertainty exists with respect to the boundary of any district as shown on the Zoning Base District or Overlay District Maps, the following rules shall apply:

**2.5.1** Where a boundary is indicated as a highway, street, alley, railroad, or utility right-of way, it shall be construed to be the centerline of the right-of way;

**2.5.2** Where a boundary is indicated as approximately parallel to a highway, street, alley, railroad, utility right-of-way, watercourse or Town boundary, it shall be construed as parallel thereto at such distance from the edge of the right-of-way thereof as shown on the Zoning Maps;

**2.5.3** Where a boundary coincides within ten (10) feet or less with a lot line, the boundary shall be construed to be the lot line; and

**2.5.4** If no dimension is given on the Zoning Maps, the location of any boundary shall be determined by the Zoning Code Enforcement Officer by use of the graphic scale shown on the Zoning Maps.

## **Section 3 ALLOWABLE USES IN ZONING DISTRICTS**

### **3.1 Table of Uses**

Subject to all other applicable sections and all other local, state, and federal laws, rules and regulations, no building, structure, or land may be used or occupied except for the purposes permitted in the base district in which the use is located as set forth in the Table of Principal Uses or, for any accessory building or structure, as set forth in the Table of Accessory Uses.

### **3.2 Designation of Permitted Uses**

Permitted uses in the base districts are designated in the Table of Principal Uses and Table of Accessory Uses by the following.

**3.2.1** Uses Permitted by Right. A use denoted by the letter "P" is permitted by right in that district.

**3.2.2** Uses Permitted by Special Exception. A use denoted by the letters "SE" is a use that may be authorized by special exception in that district. The Board of Adjustment may grant special exceptions in accordance with the procedures and conditions set forth in Section 15.3.2, Special Exceptions.

**3.2.3** Uses Permitted by Conditional Use Permit. A use denoted by the letters "CU" is a use, which may be authorized by a conditional use permit in that district. The Planning Board may grant a conditional use permit in accordance with the procedures and conditions set forth in Section 15.4.1, Conditional Use Permit.

**3.2.4** Uses Not Permitted. A use denoted by a dashed line (-) within a zoning district, is a use, which is not permitted in that district.

### **3.3 Classification of Uses Not Specified or Changes in Use**

In the event that a proposed use is not specified in the Table of Principal Uses or Table of Accessory Uses upon written application by the land owner, the Zoning Code Enforcement Officer shall determine the administrative classification of the proposed use and whether the use is a use permitted by right; a use that requires a special exception, conditional use permit, or other approval; or a use that is not permitted under this Ordinance. Any determination involving a non-conforming use shall be made pursuant to Section 14, Non-conforming Lots, Uses, and Structures.

**3.3.1** Classification of Uses Not Specified. The Zoning Code Enforcement Officer shall consider the similarity of the characteristics, function, or the intensity of the proposed use to other uses included in the Table of Principal Uses and Table of Accessory Uses. The Zoning Code Enforcement Officer may also consider the similarity

of a proposed non-residential use to the hierarchy of non-residential uses as developed by the U. S. Department of Labor, North American Industrial Classification System (NAICS).

**3.3.2** Appeal of an Administrative Classification. The Zoning Code Enforcement Officer's determination of an administrative classification may be appealed to the Board of Adjustment as set forth in Section 15.3.1, Decisions by the Board of Adjustment.

**3.3.3** Change in a Non-conforming Use. A change from one non-conforming use to another non-conforming use shall require a special exception from the Board of Adjustment, subject to the review criteria established in Section 14, Non-conforming Lots, Uses and Structures.

### **3.4 Supplemental Standards**

Certain uses set forth in the Table of Principal Uses and the Table of Accessory Uses are subject to additional conditions and standards contained in Section 5, Supplemental Standards. The section number of the applicable supplemental standards pertaining to a use is indicated in the extreme right hand column of the Table of Principal Uses and the Table of Accessory Uses under the heading "Supplemental Standards". The referenced standards shall apply to all such uses in all districts in which the use is located, regardless of whether the use is permitted by right, special exception, or conditional use permit.

### **3.5 All Uses Subject to Overlay District Provisions**

Uses permitted by the Table of Principal Uses and the Table of Accessory Uses are subject to the additional restrictions of any applicable overlay districts. Wherever there is a conflict between the provisions of an overlay district and a base district, the provision that imposes the greater restriction or the higher standard shall control.

### **3.6 Multiple Principal Uses on a Single Lot**

**3.6.1** Non-residential Uses, And Multi-family Dwelling Units. Multiple principal uses may be established on a single lot for non-residential uses and multi-family dwelling units only if such uses in that district are authorized within the Table of Principal Uses.

**3.6.2** Single and Two-family dwellings. More than one (1) single family dwelling or more than one (1) two-family dwelling may be located on a single lot only pursuant to Section 10, Open Space Development.

**3.6.3** Manufactured Housing. More than one manufactured home may be located on a single lot only pursuant to Section 9, Manufactured Home Parks.

**3.6.4 Other Requirements.** Each principal use on a single lot shall be subject to all the requirements for that use, including applicable supplemental standards and receipt of special exceptions or conditional use permits.

### **3.7 Nuisances and Hazards:**

No use may be made of any lot that may:

1. Become an excessive annoyance or nuisance to other properties by reason of unsightliness or the excessive emission of odors, dust, fumes, smoke, noise, heat or glare; or
2. Unreasonably increase the fire hazard to adjoining properties as measured by fire insurance ratings.

### **3.8 Waste Material:**

Property owners shall properly dispose of any waste materials, and shall not permit any waste materials to remain on any property, except in an enclosed area approved by the Planning Board.

### **3.9 Subdivision and Site Plan Approval**

The subdivision of land and the development of certain residential and non-residential projects are subject to the approval of the Planning Board under the provisions of the Subdivision Regulations and the Site Plan Review Regulations. All uses and developments for which site plan review is required are listed in Section 15.4, Decisions by the Planning Board. The application for a conditional use permit from the Planning Board under this Ordinance may be undertaken simultaneously with the site plan or subdivision approval process.

### **3.10 Table of Principal Uses**

The Table of Principal Uses is organized according to the following functional and economic classification of land uses [Next Page]:

Residential  
Educational and Institutional  
Services - Entertainment and Recreation  
Services - Financial, Medical and Professional

Services - Lodging and Restaurants  
Retail Trade (except motorized vehicles and restaurants)  
Motor Vehicle Sales and Service  
Transportation, Communications, and Utilities  
Manufacturing and Construction  
Agricultural

### **3.11 Table of Accessory Uses**

The Table of Accessory Uses is organized according to a functional relationship to principal uses, as follows:

Accessory to a Principal Residential Use  
Accessory to a Principal Non-residential Use







| Principal Uses |  | Base Districts |     |    |    |   |    |      |    | Supplemental Standards<br>(For all uses, refer first to Section 4 <u>Dimensional Standards</u> ) |  |
|----------------|--|----------------|-----|----|----|---|----|------|----|--|--|
| Use #          | Use Category and Description   | R-1            | R-2 | A  | CO | C | I  | RSBO | VC |  |  |
| C              | Services - Entertainment and Recreation  |                |     |    |    |   |    |      |    |  |  |
| 1              | Concert halls or indoor theaters   | -              | -   | -  | -  | P | -  | -    | CU |  |  |
| 2              | Commercial indoor recreational facility such as bowling alleys, billiard halls, amusement centers and similar uses | -              | -   | -  | -  | P | -  | -    | CU |  |  |
| 3              | Privately owned indoor health and fitness center   | -              | -   | P  | -  | P | P  | CU   | CU |  |  |
| 4              | Indoor or outdoor recreation facility  | SE             | SE  | P  | -  | P | SE | CU   | CU |  |  |
| 5              | Recreational areas including day camps   | -              | -   | P  | -  | - | -  | CU   | CU |  |  |
| 6              | Parks, playgrounds   | P              | P   | P  | P  | P | -  | CU   | CU |  |  |
| 7              | Riding trails  | SE             | SE  | P  | P  | - | -  | -    | -  |  |  |
| 8              | Stables and equestrian centers, riding academies   | -              | -   | P  | P  | - | -  | -    | -  |  |  |
| 9              | Clubs, lodges and hunting preserves, ski tows, winter sports facilities, youth camps                               | -              | -   | SE | SE | - | -  | -    | -  |  |  |
| 10             | Community centers, services and grounds  | -              | -   | -  | -  | P | -  | CU   | CU |  |  |

| Principal Uses |  | Base Districts |     |    |    |    |    |      |    | Supplemental Standards<br>(For all uses, refer first to Section 4 <u>Dimensional</u> Standards) |  |  |
|----------------|--|----------------|-----|----|----|----|----|------|----|---|--|--|
| Use #          | Use Category and Description   | R-1            | R-2 | A  | CO | C  | I  | RSBO | VC |   |  |  |
| D              | Services - Financial, Medical and Professional   |                |     |    |    |    |    |      |    |   |  |  |
| 1              | Mortuary or funeral home   | SE             | SE  | -  | -  | P  | -  | CU   | CU |   |  |  |
| 2              | Hospitals  | SE             | SE  | SE | -  | P  | SE | CU   | CU |   |  |  |
| 3              | Nursing homes and special care homes   | SE             | SE  | SE | -  | P  | SE | CU   | CU |   |  |  |
| 4              | Small Offices, not exceeding 1,500 square feet, of general business and professional offices and healthcare practitioners, including outpatient healthcare | SE             | SE  | SE | -  | P  | -  | CU   | CU |   |  |  |
| 5              | Large offices of healthcare practitioners including outpatient healthcare  | -              | -   | -  | -  | P  | -  | CU   | CU |   |  |  |
| 6              | General business and professional offices  | -              | -   | -  | -  | P  | SE | CU   | CU |   |  |  |
| 7              | Banking and financial services with drive-through service  | -              | -   | -  | -  | P  | SE | -    | -  |   |  |  |
| 8              | Banking and financial services with no drive-through service   | -              | -   | -  | -  | P  | -  | CU   | CU |   |  |  |
| 9              | Veterinary services  | SE             | SE  | SE | -  | P  | -  | CU   | CU |   |  |  |
| 10             | Kennels  | -              | -   | SE | -  | SE | -  | -    | -  |   |  |  |



| Principal Uses |   | Base Districts |     |    |    |    |    |      |    | Supplemental Standards<br>(For all uses, refer first to Section 4 <u>Dimensional Standards</u> ) |  |             |
|----------------|---|----------------|-----|----|----|----|----|------|----|--|--|-------------|
| Use #          | Use Category and Description  | R-1            | R-2 | A  | CO | C  | I  | RSBO | VC |  |  |             |
| F              | Retail Trade (except motorized vehicle and restaurant uses)   |                |     |    |    |    |    |      |    |  |  |             |
| 1              | Sales of goods and membership within an establishment with no outside storage or display of inventory | -              | -   | -  | -  | P  | -  | CU   | CU |  |  |             |
| 2              | Lumber yards  | -              | -   | -  | -  | P  | P  | -    | -  |  |  |             |
| 3              | Sales of garden supplies with extensive outside storage of inventory                                  | -              | -   | SE | -  | P  | -  | -    | -  |  |  |             |
| 4              | Adult video or book store, adult motion picture theater, or adult theater                             | -              | -   | -  | -  | SE | SE | -    | -  |  |  | Section 5.3 |
| 5              | Tattoo Parlor   | -              | -   | -  | -  | SE | -  | -    | -  |  |  |             |
| 6              | General store   |                |     | SE |    | P  | SE | CU   | CU |  |  |             |
| 7              | Florist shops   | -              | -   | SE | -  | P  | -  | CU   | CU |  |  |             |
| 8              | Shopping centers  | -              | -   | -  | -  | SE | SE | -    | -  |  |  |             |
| 9              | Beauty shops, barber shops, craft shops, retail specialty shop, personal service shops                | -              | -   | -  | -  | P  | -  | CU   | CU |  |  |             |
| 10             | Any other retail establishment  | -              | -   | -  | -  | P  | -  | -    | CU |  |  |             |
|                |   |                |     |    |    |    |    |      |    |  |  |             |



| Principal Uses |  | Base Districts |     |    |    |    |    |    |  | Supplemental Standards<br>(For all uses, refer first to Section 4, <u>Dimensional Standards</u> ) |  |  |              |
|----------------|--|----------------|-----|----|----|----|----|----|--|---|--|--|--------------|
| Use #          | Use Category and Description   | R-1            | R-2 | A  | CO | C  | I  |    |  | VC  |  |  |              |
| H              | Transportation, communications and utilities                         |                |     |    |    |    |    |    |  |   |  |  |              |
| 1              | parking facility   | -              | -   | -  | -  | P  | -  | -  |  |   |  |  |              |
| 2              | Truck or rail freight terminal                                       | -              | -   | -  |    | -  | P  | -  |  | -   |  |  |              |
| 3              | Heliport   | -              | -   | -  | -  | -  | SE | -  |  | -   |  |  |              |
| 4              | Wholesale and distribution facilities                                | -              | -   | -  | -  | P  | P  | -  |  | -   |  |  |              |
| 5              | Warehousing or storage facilities                                    | -              | -   | -  | -  | -  | P  | -  |  | -   |  |  |              |
| 6              | Bulk fuel storage for distribution                                   | -              | -   | -  | -  | -  | SE | -  |  | -   |  |  |              |
| 7              | Telecommunications tower   | -              | -   | CU | CU | CU | CU | -  |  | -   |  |  | Section 11   |
| 8              | Co-location of telecommunications equipment on an existing structure | CU             | CU  | CU | CU | P  | P  | CU |  | -   |  |  | Section 11   |
| 9              | Essential public utilities and appurtenances                         | SE             | SE  |    | SE | P  | SE | -  |  | -   |  |  | Section 5.15 |
| 10             | Essential government services, and public works facilities           | P              | P   | P  | -  | P  | -  | -  |  | -   |  |  |              |
| 11             | Dams, water supply works   | SE             | SE  | SE | P  | SE | SE | CU |  | CU  |  |  |              |

| Principal Uses |  | Base Districts |     |    |    |    |    |      |    | Supplemental Standards<br>(For all uses, refer first to Section 4, <u>Dimensional Standards</u> ) |  |              |  |
|----------------|--|----------------|-----|----|----|----|----|------|----|---|--|--------------|--|
| Use #          | Use Category and Description                                       | R-1            | R-2 | A  | CO | C  | I  | RSBO | VC |   |  |              |  |
| I              | Manufacturing, construction, wholesale trade                       |                |     |    |    |    |    |      |    |   |  |              |  |
| 1              | Manufacturing, fabrication, and assembly industries                | -              | -   | SE | -  | P  | P  | -    | -  |   |  | Section 5.13 |  |
| 2              | Research and development facilities                                | -              | -   | -  | -  | P  | P  | -    | -  |   |  |              |  |
| 3              | Materials recycling and processing                                 | -              | -   | -  | -  | -  | P  | -    | -  |   |  |              |  |
| 4              | Excavation and processing of earth materials or quarrying of stone | -              | -   | SE | -  | -  | SE | -    | -  |   |  | Section 12   |  |
| 5              | Industrial park  | -              | -   | SE | -  | -  | P  | -    | -  |   |  | Section 6    |  |
| 6              | Manufacturing or bulk storage of explosives                        | -              | -   | -  | -  | -  | SE | -    | -  |   |  |              |  |
| 7              | Wholesale merchandise brokers, excluding storage                   | -              | -   | -  | -  | P  | P  | -    | -  |   |  |              |  |
| 8              | Light Industry   | -              | -   | -  | -  | SE | P  | -    | -  |   |  |              |  |
| 9              | Wholesale establishments   | -              | -   | -  | -  | SE | P  | -    | -  |   |  |              |  |
| 10             | Warehousing  | -              | -   | -  | -  | -  | P  | -    | -  |   |  |              |  |
| 11             | Laboratories   | -              | -   | -  | -  | P  | P  | -    | -  |   |  |              |  |
| 12             | Lumber yards   | -              | -   | -  | -  | -  | P  | -    | -  |   |  |              |  |
| 13             | Recycling centers  | -              | -   | -  | -  | P  | P  | -    | -  |   |  |              |  |
|                |  |                |     |    |    |    |    |      |    |   |  |              |  |

| Principal Uses |  | Base Districts |     |    |    |   |    |      |    |  |  | Supplemental Standards<br>(For all uses, refer first to Section 4, <u>Dimensional Standards</u> ) |              |
|----------------|--|----------------|-----|----|----|---|----|------|----|--|--|---|--------------|
| Use #          | Use Category and Description   | R-1            | R-2 | A  | CO | C | I  | RSBO | VC |  |  |   |              |
| <b>J</b>       | <b>Agricultural</b>  |                |     |    |    |   |    |      |    |  |  |   |              |
| 1              | Agricultural and horticultural operations  | SE             | SE  | P  | P  | - | -  | -    | -  |  |  |   | Section 5.4  |
| 2              | Greenhouses  | SE             | SE  | P  | P  | P | -  | -    | -  |  |  |   | Section 5.4  |
| 3              | Dairies  | SE             | SE  | P  | P  | - | -  | -    | -  |  |  |   | Section 5.4  |
| 4              | Raising or keeping of livestock and poultry  | SE             | SE  | P  | P  | - | -  | -    | -  |  |  |   | Section 5.4  |
| 5              | Commercial kennel or veterinary hospital   | -              | -   | SE | -  | - | -  | -    | -  |  |  |   | Section 5.5  |
| 6              | Sawmill  | -              | -   | SE | -  | - | SE | -    | -  |  |  |   |              |
| 7              | Farm buildings   | -              | -   | P  | P  | - | SE | -    | -  |  |  |   | Section 5.4  |
| 8              | Facilities for processing of animal products   | -              | -   | SE | -  | - | SE | -    | -  |  |  |   |              |
| 9              | Tree farms, forest preserves, wildlife reservations, watershed protection area, reservoirs | -              | -   | P  | P  | - | SE | -    | -  |  |  |   |              |
| 10             | Landscaping and Similar Businesses   | -              | -   | P  | -  | - | -  | -    | -  |  |  |   | Section 5.11 |
|                |  |                |     |    |    |   |    |      |    |  |  |   |              |
|                |  |                |     |    |    |   |    |      |    |  |  |   |              |
|                |  |                |     |    |    |   |    |      |    |  |  |   |              |



| Accessory Uses |   | Base Districts |     |    |    |    |   |      |    | Supplemental Standards<br>(For all uses, refer first to Section 4, <u>Dimensional Standards</u> ) |  |  |  |
|----------------|---|----------------|-----|----|----|----|---|------|----|---|--|--|--|
| Use #          | Use Category and Description  | R-1            | R-2 | A  | CO | C  | I | RSBO | VC |   |  |  |  |
| A              | Accessory to a Principal Residential Use  |                |     |    |    |    |   |      |    |   |  |  |  |
| 1              | Home occupation   | P              | P   | P  | P  | P  | - | P    | P  | Section 5.11  |  |  |  |
| 2              | Family Day Care home facility   | P              | P   | P  | -  | P  | - | CU   | CU | Section 5.6   |  |  |  |
| 3              | Family group day care home facility   | SE             | SE  | -  | -  | P  | - | CU   | CU | Section 5.6   |  |  |  |
| 4              | Garage, carport or parking space  | P              | P   | P  | -  | -  | - | CU   | CU | Section 5.1   |  |  |  |
| 5              | Accessory buildings and facilities such as a tool sheds, non-commercial greenhouses, workshops, swimming pool, tennis court, sheds and portable structures, including plastic and canvas covered framed structures. | P              | P   | P  | -  | -  | - | CU   | CU | Section 5.1   |  |  |  |
| 6              | Accessory attached dwelling unit  | SE             | SE  | SE | SE | -  | - | CU   | CU | Section 5.2   |  |  |  |
| 7              | Yard and garage sales   | P              | P   | P  | -  | -  | - | CU   | CU | Section 5.17  |  |  |  |
| 8              | Storage Containers  | P*             | P*  | P* | P* | P* | - | P*   | P* |   |  |  |  |
|                |   |                |     |    |    |    |   |      |    |   |  |  |  |
|                |   |                |     |    |    |    |   |      |    |   |  |  |  |
|                |   |                |     |    |    |    |   |      |    |   |  |  |  |

\* Allowed in conjunction with an active building permit.



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## **Section 4 DIMENSIONAL STANDARDS**

### **4.1 Generally**

In addition to all other standards and restrictions contained in the Ordinance, or imposed by other law or regulations, no land shall be subdivided, buildings or structures constructed, or uses established unless meeting or exceeding standards set in this section, including the Table of Dimensional Regulations Section 4.3.

### **4.2 Additional Standards**

#### **4.2.1 Minimum Lot Frontage:**

Minimum lot frontage shall be a continuous, unbroken line along one (1) street. The minimum lot frontage dimension must be maintained with the lot as a minimum lot width to a depth equivalent to the required set back as specified in the Table of Dimensional Regulations Section 4.3.

#### **4.2.2 Corner Lots Front Set Back:**

Where a lot is a corner lot or otherwise has multiple street frontages, front dimensions shall be observed adjacent to one of the frontages.

#### **4.2.3 Lot Width:**

The horizontal distance parallel to the front lot line measured between the side lot lines at the front building line.

#### **4.2.4 Lot Size:**

Where a lot is not served by a municipal sewer system and an on-site subsurface disposal system is required, the lot size shall not be less than the larger of either the area required by the New Hampshire Department of Environmental Services- Water Division (NHDES-WD), or the minimum lot size as specified in the Table of Dimensional Regulations Section 4.3.

#### **4.2.5 Maximum Height of Buildings or Structures:**

The height of buildings and structures is further subject to the following provisions:

##### **4.2.5.1 Maximum Number of Stories –**

**4.2.5.1.1** Where the maximum height of a building is limited to thirty-five (35) feet, the maximum number of stories allowed is two (2).

**4.2.5.1.2** Where the maximum height of a building is limited to forty-five (45) feet, the maximum number of stories allowed is three (3).

##### **4.2.5.2 Height Limits for Signs –**

The height limits for signs shall be in accordance with the requirements of Section 7.

**4.2.5.3 Height Limits for Telecommunications Towers –**  
The height limits for telecommunications towers shall be in accordance with the requirements of Section 11, Telecommunications Facilities.

**4.3 Table of Dimensional Regulations**  
(Table begins on Next Page)

| TABLE OF DIMENSIONAL REGULATIONS         |                                |                  |                      |                              |        |        |                      |                   |   |
|--|--------------------------------|------------------|----------------------|------------------------------|--------|--------|----------------------|-------------------|---|
| Base District                            | Availability of Town Utilities | Minimum Lot Size | Minimum Lot Frontage | Minimum Setback Requirements |        |        | Maximum Lot Coverage | Maximum Height    | Other   |
|  |                                |                  |                      | Front                        | Rear   | Side   |                      |                   |   |
|  |                                | (SF or ac)       | (feet)               | (feet)                       | (feet) | (feet) | (%)                  | (feet)            | (feet)  |
| Medium Density Residential (R-1)         | not available                  | 1.0 ac           | 150                  | 25                           | 30     | 15     | 25                   | 35                | 25 on side yard with side street                    |
|  | water or sewer                 | 1.0 ac           | 150                  |                              |        |        |                      |                   |   |
|  | water & sewer                  | 0.5 ac           | 100                  |                              |        |        |                      |                   |   |
| High Density Residential (R-2)           | not available                  | 40,000 SF        | 100                  | 25                           | 30     | 15     | 25                   | 35                | 25 side yard on side street                         |
|  | water or sewer                 | 20,000 SF        |                      |                              |        |        |                      |                   |   |
|  | water & sewer                  | 10,000 SF        |                      |                              |        |        |                      |                   |   |
| Agricultural (A)                         | not applicable                 | 2.0 ac           | 200                  | 35                           | 25     | 25     | 25                   | 35                | not applicable                                      |
| Conservation & Open Space (CO)           | not applicable                 | 5.0 ac           | 200                  | 50                           | 50     | 35     | 10                   | 35                | Not applicable                                      |
| Commercial (C)                           | water & sewer                  | 5,000 SF         | 50                   | 10                           | 25     | 10     | 25                   | 45                | 50 when abutting residential                        |
| Industrial (I)                           | not applicable                 | 2.0 ac           | 50                   | 50                           | 25     | 25     | 50                   | 45                | 50 when abutting residential                        |
| Residential Small Business Office (RSBO) | not available                  | 40,000 SF        | 100                  | 25                           | 30     | 15     | 25                   | 35                | not applicable                                      |
|  | water or sewer                 | 20,000 SF        |                      |                              |        |        |                      |                   |   |
|  | water & sewer                  | 10,000 SF        |                      |                              |        |        |                      |                   |   |
| Village Commercial                       | not applicable                 | 5,000 SF         | 50                   | 10*                          | 25     | 10**   | ***                  | 45ft or 3 stories | Side & rear yard is 25ft when abutting residential. |

\* Less with waiver by the Planning Board.

\*\*Minimum side yard is 10ft (unless masonry construction then 0ft)

\*\*\*Dictated by setbacks, up to a maximum building footprint of 8,000 sf.

(Typographical error revision date April 2, 2001)

## Two-family Dwellings

Two-family dwellings shall comply with the minimum yard requirements, maximum lot coverage, and maximum height as specified in Section 4.3, Table of Dimensional Regulations, of the Ordinance, and with the minimum lot size and minimum lot frontage as specified hereinafter:

| Base District       | Availability of Town Utilities | Minimum Lot Size | Minimum Lot Frontage |
|---------------------|--------------------------------|------------------|----------------------|
|                     |                                | (SF or ac)       | (feet)               |
| R - 1<br>&<br>R - 2 | not available                  | 2.0 ac           | 250                  |
|                     | water or sewer                 |                  |                      |
|                     | water & sewer                  | 0.75 ac          | 150                  |
| RSBO                | not available                  | 60,000 SF        | 150                  |
|                     | water or sewer                 | 30,000 SF        |                      |
|                     | water & sewer                  | 15,000 SF        |                      |
| A                   | not applicable                 | 3.0 ac           | 300                  |
| VC                  | water & sewer                  | 5,000 SF         | 50                   |

## 4.4 Multi-family Dwellings

### 4.4.1 Dimensional Standards

Multi-family dwellings shall comply with the requirements for maximum lot coverage as specified in Section 4.3, Table of Dimensional Regulations, and with the dimensional standards for minimum lot size, minimum lot frontage, minimum yard requirements, and maximum height, as specified hereinafter:

### 4.4.2 Number of Units

In no case shall a multi-family building, except a bonafide student dormitory, contain more than twelve (12) dwelling units, except by Conditional Use permit from the Planning Board upon a finding that the proposed building(s) are in scale with both their neighborhood and the Town as a whole.

Table of Multifamily Standards

| Base District | Minimum Lot size for first 3 units | Lot area per each add'l unit | Minimum Lot Frontage for first 3 units (ft) | Lot Frontage per each add'l unit (ft) | Minimum Setback Requirements |           |           |                                | Maximum Height (ft) |
|---------------|------------------------------------|------------------------------|---|---------------------------------------|------------------------------|-----------|-----------|--------------------------------|---------------------|
|               |                                    |                              |   |                                       | Front (ft)                   | Rear (ft) | Side (ft) | Side yard on side street. (ft) |                     |
| R-1           | 1.0 ac                             | 0.25 ac                      | 175   | 25                                    | 30                           | 35        | 30        | 40                             | 45                  |
| R-2 & RSBO    | 22,500 SF                          | 2,500 SF                     | 150   | 10                                    | 30                           | 35        | 30        | 40                             | 45                  |
| C             | 22,500 SF                          | 2,500 SF                     | 150   | 10                                    | 30                           | 35        | 30        | Not applicable                 | 45                  |
| VC            | 5,000 SF                           | -                            | 50  | -                                     | 10                           | 15        | 10*       | Not applicable                 | 45                  |

In the VC District the side yard may be eliminated if the building is of masonry construction.



## **Section 5 SUPPLEMENTAL STANDARDS**

### **5.1 Accessory Buildings and Facilities**

Accessory buildings, including private garages, carports, non-commercial greenhouses, and workshops, shall not exceed a maximum floor area of six hundred (600) square feet. The maximum allowable height of an accessory building shall be seventeen (17) feet to the peak. Accessory uses or buildings shall not be located closer than ten (10) feet to any side or rear lot line, and not more than twenty-five (25%) percent of the area of the yard may be occupied by an accessory building. Larger structures shall conform to the setback requirements of the District.

### **5.2 Accessory Dwelling Unit**

One (1) accessory dwelling unit may be attached to a single-family residence subject to the following provisions:

**5.2.1** An accessory dwelling unit shall be clearly incidental to the primary use of the property as a single-family residence, and shall not occupy more than six hundred fifty (650) square feet of gross floor area within the residence;

**5.2.2** An accessory dwelling unit shall be constructed within or attached to a single-family residence;

**5.2.3** At least one interior connecting door, or other access for persons to pass between the primary residence and the accessory dwelling unit, shall be provided;

**5.2.4** Septic system design and capacity shall be approved by the N.H. Department of Environmental Services;

**5.2.5** No new exterior entrance or exit to an accessory dwelling unit shall be constructed facing the front of the single-family residence;

**5.2.6** At least one parking space shall be provided for an accessory dwelling unit, and no new curb cut from the street shall be constructed;

**5.2.7** Exterior construction and materials for an accessory dwelling unit shall be uniform with the single-family residence;

**5.2.8** The lot on which the accessory dwelling unit is located shall meet the minimum lot size requirements, and the accessory dwelling unit shall meet the maximum height and minimum yard setback requirements, as provided in Section 4.3, Table of Dimensional Regulations; and

The single-family residence or the accessory dwelling unit shall be, and shall remain, owner

occupied.

### **5.3 Adult Video or Book Store, or Adult Theaters**

An Adult Video or Book Store, an Adult Motion Picture Theater, or an Adult Theater shall be permitted subject to the following conditions:

**5.3.1** The use shall be located no closer than one thousand (1000) feet from any school, church, or park, or from the boundary of the R-1, R-2, or A District; and

**5.3.2** The use shall not be located closer than one thousand (1000) feet from any other Adult Video/Book Store, Adult Motion Picture and Adult Theaters.

### **5.4 Tattoo Parlor**

A Tattoo Parlor shall be permitted subject to the following conditions: (1) The use shall be located no closer than 1,000 feet from any school, church or park or from the boundary of the R-1, R-2 and A Districts, and (2) The use shall not be located closer than 1,000 feet to another Tattoo Parlor.

### **5.5 Agricultural and Horticultural Operations**

Farm buildings in the agricultural or conservation zones shall be located no closer than one hundred (100) feet to any boundary of a residential district.

### **5.6 Commercial Kennel**

Commercial kennels are permitted provided that they are located on lots of not less than two (2) acres, and that no buildings or structures are located within one hundred (100) feet of any lot line.

### **5.7 Child Day Care Facilities**

#### **5.7.1 Compliance with Regulations**

All child day care facilities must comply with all applicable State and Federal regulations.

#### **5.7.2 Outdoor Play Area Required**

Except for Day Care Homes, all child day care facilities, including Family Day Care Homes, Family Group Child Day Care Homes, and Group Child Day Care Centers shall provide for fifty (50) square-feet of outdoor play area per child. A fence shall enclose the outdoor play area, the height and materials of which are subject to approval by the Planning Board.

#### **5.7.3 Minimum Lot Size**

A Family Group Child Day Care Home shall be located on a lot of at least twenty thousand

(20,000) square feet in area.

### **5.8Dwellings in a Building Accommodating Non-residential Uses**

#### **5.8.1 In the C and VC Districts**

Dwelling units are allowed only on the upper floors within a mixed occupancy building that contains other permitted non-residential uses on the ground floor.

#### **5.8.2 In the RSBO District**

Multi-family dwelling units are allowed within a mixed occupancy building containing other permitted non-residential uses.

### **5.9Dwelling for a Resident Caretaker**

A dwelling unit may be allowed as an accessory use to a principal non-residential use in order to provide quarters for a caretaker, security personnel, custodial personnel, or other similar purpose.

### **5.10 Farm Market or Roadside Stand**

Roadside stands may be allowed for the sale of farm products raised on the premises, provided that at least five (5) off-street parking spaces are provided and that no stand is located nearer than fifteen (15) feet to any street or lot line.

### **5.11 Home Occupation**

An accessory use of a dwelling unit for gainful employment is permitted subject to each of the following conditions:

**5.11.1** The home occupation shall be clearly incidental and subordinate to the use of the dwelling unit as a residence.

**5.11.2** The home occupation is conducted by a resident of the premises, and shall not degrade or adversely affect or undermine the residential character of the buildings or of surrounding properties.

**5.11.3** Non-resident, on-site employees are limited to no more than one (1) full-time equivalent person. All parking must be provided on site.

**5.11.4** Goods sold at retail should be only those manufactured or assembled on the premises.

**5.11.5** No more than twenty-five percent (25%) of the gross floor area of the residence shall be used for the business.

**5.11.6** There shall be no outdoor displays of goods, and no outdoor storage of materials or equipment unless screened from roads and surrounding properties by natural or structural means to such an extent and in such manner as may be specifically required and approved by the Board of Adjustment.

**5.11.7** The residence or accessory buildings shall not provide window displays or other characteristics or features normally associated with commercial uses.

The owner of the home occupation and the owner of the residence shall register said home occupation with the Planning and Building Department, prior to the start of the business.

## **5.12 Landscaping Businesses in Agricultural District**

Storage of equipment and materials for landscaping, construction and similar businesses in the Agricultural District, if accessory to a primary residence, located on at least five (5) acres, and subject to at least one hundred (100) foot setbacks from all lot lines. All commercial vehicles and materials to be enclosed or screened from view. No processing of materials allowed. Site Plan review required.

## **5.13 Manufacturing, Fabrication and Assembly Industries**

Light industry and wholesale establishments provided that all objectionable emissions such as dust, smoke, or odor are confined wholly within the premises and that no noise or vibration is detectable without instruments beyond the property boundaries.

## **5.14 Multi-family Utility Service Requirements**

All multi-family dwellings shall be served by public water and sewer systems.

## **5.15 Public Utilities**

Public utility facilities and utility substations are permitted if essential for service to the district and subject to the following minimum regulations:

**5.15.1** All utility service structures shall be located not less than fifty (50) feet from any property line;

**5.15.2** A safety fence of not less than six (6) feet in height is required together with a landscape screen at least seventy-five (75) percent opaqueness to protect neighboring property from potential loss of use or diminution of land value;

**5.15.3** If high voltage is necessary for the operation of the facility, signs shall be located every twenty (20) feet, be attached to the fence or wall, and display in large bold letters, the words: "HIGH VOLTAGE DANGER";

**5.15.4** No equipment, mobile or immobile, not used in direct support of the facility shall be stored or parked on the site unless repairs to the facility are being made;

**5.15.5** Any utility service which requires a full time attendant or consumer visitation shall provide a minimum of three (3) parking spaces or one (1) space per employee on the shift with the greatest employment, plus one (1) space per one thousand (1000) square feet of gross floor area of a building; whichever is greater.

**5.15.6** No existing non-conforming service structures shall be enlarged; and

All utility service structures must have all appropriate Federal and State approvals, and must be removed upon lapse of those approvals.

## **5.16 Sale, Rental, Repair or Servicing of Motor Vehicles**

**5.16.1** Automobile sales and service, repair garages, and/or service stations are allowed provided that all structures, including storage tanks, shall be placed not less than twenty-five (25) feet from any property line, and that all storage tanks must be underground.

**5.16.2** Gasoline Stations: A gasoline station with or without accessory service bays or convenience stores is not permitted within two (2) miles (lot line to lot line) of an existing service station measured by road length to and from each property. 5.16.2 cannot be waived or lessened.

## **5.17 Yard Sales**

Yard sales are permitted as an accessory use to a principal residential use, provided that the yard sale is confined to the premises of the principal residential use, that the length of time of any one (1) sale shall not exceed three (3) consecutive days, and that there shall be no more than four (4) sales in any one (1) year period on any premises. Under no circumstances shall yard sales become a home occupation, a home-based business, or a “flea market”, or any other activity for the purpose of selling new or used merchandise or goods which are unrelated to the homeowner’s personal property.

## **Section 6 INDUSTRIAL PARK**

### **6.1 Applications and Review Process**

**6.1.1 Special Exception Required** - The establishment of an Industrial Park requires the filing of an application for a special exception pursuant to Section 15.3.2, Special Exceptions.

**6.1.2 Site Plan and Subdivision Approvals** - If the special exception is granted, the applicant must then file an application for a site plan approval in accordance with Section 15.4.2, Site Plan Review, and may also have to file an application for a subdivision approval in accordance with Section 15.4.2, Subdivision Approval.

### **6.2 Permitted Uses**

The uses permitted shall be those set forth in Principal Use categories I, Transportation, Communications, and Utilities, and J, Manufacturing and Construction, for the Industrial (I) District in Section 3.8, Table of Principal Uses, and shall include manufacturing, research and testing laboratories, manufacturing plants for the assembly, fabrication and processing of materials, office establishments devoted to public utility or research and development use, warehousing, storage and wholesaling establishments. Accessory uses permitted include those allowed in the Industrial (I) District in 3.9, Table of Accessory Uses.

### **6.3 Minimum Parcel Size**

No Industrial Park shall be established on a site of less than ten acres.

### **6.4 Development Design Standards**

**6.4.1** The ratio of total ground floor area to parcel area shall not be more than one (1) to two and a half (2 ½).

**6.4.2** Improvements shall not exceed forty-five (45) feet, in height; provided however, that water towers or tanks, standpipes, penthouses or structures for housing elevators, or elevator equipment, stairways, ventilating fans or similar equipment to operate and maintain the buildings; or similar structures, or office and non-manufacturing or warehousing space may exceed the forty-five (45) foot limitation with the approval of the Zoning Board of Adjustment.

**6.4.3** No structure or part thereof, including receiving and shipping platforms, shall be within fifty (50) feet of any street or proposed street, or within twenty-five (25) feet of any lot or parcel line.

**6.4.4** There shall be a landscaped buffer strip along any boundary of the parcel, which abuts a district other than the Commercial (C) or Industrial (I) Districts. The buffer strip

shall be not less than ten (10) feet in width, and contain a center strip screen of plantings of not less than three (3) feet in width, of which at least fifty (50) percent shall be evergreens. All landscaping shall be properly maintained. A solid wall or fence approved by the Board may be substituted for such plantings in whole or in part.

**6.4.5** Signs permitted shall be those allowed for Industrial (I) Districts pursuant to Section 7.6, Commercial, Industrial, Small Business Office & Village Commercial Districts.

**6.4.6** No receiving or shipping platforms shall be installed on the front of a building or structure unless properly screened and approved by the Planning Board. The size of the loading docks shall be indicated on plans submitted for approval.

**6.4.7** The minimum number of off-street parking spaces shall be one (1) for every three (3) employees during the peak period of operation. Customer parking shall be specifically designated on plans submitted for approval.

**6.4.8** No materials or supplies shall be stored or permitted to remain on any part of the property outside of the buildings, except if necessary, when screened from view, and approved by the Planning Board. Any finished products or semi-finished products stored on the property outside of the buildings shall be confined to the rear of the parcel, and shall in no instance, be placed on that side of a building which fronts on an existing or proposed street. Fuel oil, solid, liquid, or gas storage tanks or containers used as part of the heating equipment shall be placed underground.

## **Section 7 SIGN REGULATIONS**

### **7.1 Purpose**

These regulations are intended to maintain and enhance the appearance and aesthetic environment of the town, particularly the village section, and the highway corridors leading into town, improve pedestrian and traffic safety and minimize the potential adverse effects of signs on nearby property.

### **7.2 Permit Requirement and Procedure.**

Except as expressly provided, no sign shall be erected, placed, replaced, moved, enlarged or substantially altered without a permit therefore having first been issued. A permit application, including the required fee, shall be submitted to the Zoning Code Enforcement Officer together with a set of plans at an appropriate scale showing the location on the lot, size, color(s), copy, method of illumination (if allowed) and material(s) proposed. The Zoning Code Enforcement Officer shall review the application, refer it to the appropriate board, commission and/or department as required or approve, approve with conditions or deny it. Any conditions or the reason(s) for any denial shall be stated in writing. The requirements of the Building and Electrical Codes are also applicable to signs.

#### **7.2.1 Sign Measurement**

**7.2.1.1 Sign Area:** The surface area of a sign shall be determined by the maximum Height of the sign multiplied by the maximum width. The surface area of a sign shall include all lettering or elements of a sign, accompanying design and symbols, together with the background, whether open or closed, on which they are displayed, but not including any supporting framework and bracing which are incidental to the display itself and which are not designed to attract attention. Where the sign consists of letters or symbols affixed to a surface or building, without any distinguishing border, panel or background, the area shall be considered to be the smallest rectangle or shape that encompasses all of the letters and symbols. The area of multi-faced signs shall be determined by adding together the area of all sign faces visible from any one point. When two identical signs are placed back to back, so that both faces cannot be viewed from any point at the same time, and when such sign faces are fixed to the same sign structure, the sign area shall be computed by the measurement of one of the faces. Signage on an awning shall be measured as a wall sign, except that if the awning is lighted, the entire awning shall be considered signage, measured by the amount of wall area that is covered by the entire awning. The total sign area for a property shall be the sum of the area of all signs located on the property.

**7.2.1.2 Sign Height:** The height of a sign shall be computed as the distance from the base of the sign at normal grade to the top of the highest attached component of the sign. Normal grade shall be construed to be the lower of the grade prior to construction or the



newly established grade after construction, exclusive of any filling, mounding or excavation solely for the purpose of locating the sign.

### **7.3 Exceptions to Permit Requirement.**

No permit is required for the following types of sign but such signs are otherwise subject to the requirements of this ordinance.. Any sign not complying with those requirements shall be considered to be in violation and subject to appropriate enforcement action.

**7.3.1** Noncommercial signs not exceeding two (2) square feet in area, customarily associated with a principal residential use. Such signs include nameplates containing occupant name(s), building number(s) or similar property identification information and signs posted on private property relating to private parking and warnings regarding trespassing or danger from animals.

**7.3.2** Signs erected by, on behalf of or pursuant to the authorization or direction of a governmental body including legal notices, identification and informational signs and traffic, directional or regulatory signs.

**7.3.3** Official signs of a noncommercial nature erected by public utilities.

**7.3.4** Incidental signs on private property, not exceeding four (4) square feet each, relative to parking spaces, loading areas, stacking lanes, entry and exit drives, direction of traffic flow and pedestrian ways. Incidental signs shall not include a business name, logo or other advertising.

**7.3.5** One sign per lot, not exceeding four (4) square feet on a residential lot, containing the message that the real estate (including buildings) on which the sign is located is for sale, lease or rent. Such a sign may identify the owner or agent but shall not be illuminated. All such signs shall be removed immediately after that lot has been sold, leased or rented.

**7.3.6** One construction site sign, located on the site, identifying the project, funding source(s), owner and/or developer, architect, engineer, contractor and subcontractors and containing information relating to the sale or lease of the premises. Such signs shall not be illuminated, shall not be erected prior to the issuance of a project building permit and shall be removed upon completion or discontinuance of construction or no later than thirty (30) days after the issuance of the Certificate of Occupancy, whichever occurs first.

**7.3.7** Building and historic marker signs

### **7.4 Prohibitions**

All signs not expressly authorized are prohibited. Such prohibited signs include, but are not

limited to, the following:

**7.4.1** Billboards and signs that are not related to the principal use or uses of the premises on which the sign is located;

**7.4.2** Signs which move or create an illusion of movement except those signs or portions of signs which indicate nothing more than date, time and/or temperature;

**7.4.3** Signs which are illuminated by, or have as part of their display, any animated, flashing, intermittent, traveling, tracing or sequential type of light except those signs or portions of signs which consist solely of indicators of time, date and/or temperature;

**7.4.4** Signs which create or emit any noise or sound;

**7.4.5** Signs, other than traffic control signs, which use words of warning such as, but not limited to, “stop,” “yield,” “caution” or “danger,” or that contain red, amber and/or green lights that may resemble, or be confused with, traffic control signals;

**7.4.6** Signs, or any portion of a sign, located on or affixed to a roof;

**7.4.7** Signs which impede or obstruct the visibility or lines of sight of vehicle operators on a public street, at an intersection of two or more public streets or on driveways providing access to or from lots adjacent to a public street;

**7.4.8** Signs, other than those erected by or on behalf of a governmental entity, located in or on a public right-of-way;

**7.4.9** Freestanding signs located in such a manner that any portion thereof is closer than ten (10) feet, measured horizontally, to any existing window of an adjacent building on a separate lot;

**7.4.10** Signs whose illumination is directed onto adjacent streets or property other than the lot on which the sign is located.

## **7.5 Residential, Agricultural and Conservation Districts**

The following signs are permitted in Residential (R-1 and R-2), Agricultural (A) and Conservation Open Space (CO) zoning districts. Such signs shall only be illuminated by a shielded external white light. No internal illumination is permitted.

**7.5.1** One building or freestanding sign of no more than twelve (12) square feet in area for each conforming principal nonresidential use provided that there shall be no more than one freestanding sign per lot;

**7.5.2** One sign of up to two (2) square feet in area for an approved home occupation. (See Section 5.);

**7.5.3** In an Agricultural zoning district permitted industrial uses may have signs of a type and height that are allowed in an Industrial district provided that the maximum total area of such signs on any lot shall not exceed three hundred (300) square feet.

## **7.6 Commercial, Industrial, Residential Small Business Office Districts**

The following requirements apply to signs in Commercial (C), Industrial (I) and Residential Small Business Office (RSBO) zoning districts:

**7.6.1** In Commercial (C) and Village Commercial (VC) districts one freestanding sign per lot is permitted in accord with the area and height limits specified in the Table of Maximum Sign Dimensions.

**7.6.2** In a Commercial (C) district a maximum of three (3) building signs are permitted provided that the total area of all signs does not exceed ten (10) percent of the area of the wall to which the signs are affixed

**7.6.3** Any sign that is located within two hundred fifty (250) feet of a Residential (R-1 & R-2), Agricultural (A) or Conservation Open Space (CO) district boundary shall only be illuminated by a shielded external white light. No internal illumination is permitted.

Table of Maximum Sign Dimensions:

| District                                  | Building Signs         | Freestanding Signs              |                     |               |      |
|---|------------------------|---------------------------------|---------------------|---------------|------|
|   | Maximum Sign Area (SF) | Maximum Sign Area Per Side (SF) | Maximum Height (ft) | Yard Setbacks |      |
|   |                        |                                 |                     | Front         | Side |
| Commercial (C)                            | (1)                    | 65                              | 20 (2)              | 10            | (3)  |
| Industrial (I)                            | 0                      | 100                             | 20                  | 15            | (3)  |
| Residential, Small Business Office (RSBO) | 0                      | 8                               | 7                   | 10            | 10   |
| Village Commercial (VC)                   | 100                    | 24                              | 16                  | 5             | 5    |

(1) See Section 7.6 II

(2) For shopping centers, 25 feet is the maximum

(3) The side yard setback

## 7.7 Village Commercial District

**7.7.1** Canopy, projecting and wall signs are permitted in the Village Commercial (VC) zoning district. Canopy signs may cover up to twenty (20%) percent of the area of the canopy façade.

**7.7.2** One projecting sign per lot is permitted in accord with the requirements of the Table of Maximum Sign Dimensions (VC).

**7.7.3** Wall signs are allowed on the basis of (3/4) of a square foot of sign area for each linear foot of the horizontal dimension of the wall to which the signs are affixed.

**7.7.4** The combined (total) area of all canopy, projecting and wall signs may not exceed a maximum area of one hundred (100) square feet per building.

The design of all signs in this district requires Planning Board approval. Any sign that is located within two hundred fifty (250) feet of a Residential (R-1 & R-2), Agricultural (A) or Conservation Open Space (CO) district boundary shall only be illuminated by a shielded external white light. No internal illumination is permitted.

### 7.7.5 Table of Maximum Sign Dimensions (VC)

|                                    | Canopy | Projecting | Wall | Freestanding |
|------------------------------------|--------|------------|------|--------------|
| Max. Display Area (per side) (s.f) | (2)    | 8          | (1)  | 24           |
| Max. Projection                    | N/A    | 6          | N/A  | N/A          |
| Max. Height                        | 16     | 12         | N/A  | 16           |
| Min. Height                        | N/A    | 8          | N/A  | N/A          |
| Min. Setback (all sides)           | N/A    | N/A        | N/A  | 5            |

(1)See Section 7:7

(2)Twenty percent (20%) of canopy façade area.

### 7.8Nonconforming Signs

Any sign installed prior to 1961, for which a permit was issued and where the use of the premises has not changed, is a permitted nonconforming sign. Such signs shall be subject to the following regulations:

**7.8.1** No nonconforming sign may be enlarged or altered in structure or materials in any way which increases its nonconformity.

**7.8.2** No nonconforming sign may be relocated to any position which increases its nonconformity.

**7.8.3** If any nonconforming sign is removed or destroyed it shall only be replaced or reconstructed with a sign that conforms to the provisions of this ordinance.

### 7.9Insurance Requirements

Along with the application, or as soon thereafter as it is available, any applicant for a permit to locate a sign intended to project over a public right of way shall file with the Town administration office a certificate of insurance indemnifying the Town against any form of liability. The governing body shall establish the minimum amount of coverage. No permit shall be issued or be valid prior to the receipt and approval of this certificate along with appropriate documentation identifying the type, number and contact person for any policy of insurance offered to provide this indemnification. The permit shall be in effect only so long as a valid certificate is on file. No policy of insurance shall be regarded as proper indemnification unless it provides a minimum of forty-five (45) day advance notification to the Town in the event of cancellation. If the policy lapses or is canceled, without proper replacement coverage having first been provided the sign shall be removed immediately.

## **7.10 Directional Sign Standards**

**7.10.1** Directional signs may be erected in any zoning district provided that they comply with the following requirements:

**7.10.1.1** Such signs may vary in size but shall be of a uniform design as recommended by the Planning Board and approved by the governing body.

**7.10.1.2** Each such sign may include individual nameplates identifying the institution, landmark or recreational area to which it pertains and the type of recreation and/or accommodation(s) to be found. The name(s) of privately owned business establishments shall not be displayed. Governing body approval must be secured for the wording of each sign

**7.10.1.3** The governing body must approve the location of such signs.

**7.10.1.4** No approval for any directional sign is valid unless the responsibility for the cost of constructing, erecting and maintaining each such sign has been clearly specified.

**7.10.1.5** Each such sign shall be properly maintained at all times. Construction, erection and maintenance of such signs shall be supervised by the Goffstown Department of Public Works.

### **7.10.2 Directional Sign Installation**

Directional signs may be constructed and erected only after a petition for that purpose has been filed with the governing body, a public hearing on that petition has been duly noticed and held and approval has been granted. Such approval may only be granted if the petitioner has established to the satisfaction of the governing body that there is a definite public need for the proposed sign(s), the proposed location(s) is (are) not contrary to the public health, safety or welfare, the proposed sign(s) will not diminish the value of surrounding property and the proposed sign(s) does (do) not conflict with the current master plan.

### **7.10.3 Directional Sign Removal**

Any directional sign shall be removed only after a petition for that purpose has been filed with the governing body, a public hearing on that petition has been duly noticed and held and an order for removal has been issued. Such an order may only be issued if the petitioner has established to the satisfaction of the governing body that there is no longer a clear public need for the sign(s), that the location of the sign(s) is contrary to the public health, safety or welfare, that the value of surrounding property is diminished by the sign(s) and that the sign(s) is (are) contrary to the current master plan.

### **7.11 Political Signs**

Non-illuminated signs erected in connection with an election or political campaign provided that no such sign may be erected prior to the date established by state law and all such signs must be removed no later than the date established by state law, no such sign may exceed six (6) square feet in area on any residential lot and no sign may be erected on or in, or affixed to, any public property or right of way including, but not limited to, trees or utility poles in street or highway rights of way.

### **7.12 Special Event Signs**

Temporary signs indicating that a special event including, but not limited to, a grand opening, fair, carnival, circus festival or similar event, is to take place. Any such sign shall be removed no later than the date specified in the permit for that (those) sign(s) but, in no event, later than thirty (30) days from the date on which any such sign was erected

## **Section 8 PARKING AND LOADING REQUIREMENTS**

### **8.1 General Provisions**

#### **8.1.1 Applicability**

In any district, if any building or structure is constructed or enlarged or if any use of land is established or changed, off-street parking and loading spaces shall be provided for the entire use or combination of uses in accordance with the requirements.

#### **8.1.2 Design Approval**

Where approval pursuant to the Site Plan Review Regulations is required for a use in accordance with Section 15.4.2, Site Plan Review, the driveway, parking lot, and loading area layout and design for said use are subject to approval as part of the Site Plan Review process; otherwise, all driveway, parking lot, and loading area layout and designs shall be approved by the Town Engineer. Driveway, parking lot, and loading area layout and design approvals are inclusive of surfacing, drainage, landscaping, lighting, setbacks, signing, striping, wheel stops, and guardrails.

#### **8.1.3 Location of Required Parking**

The parking spaces required for the uses listed in Section 8.2.5, Table of Off-street Parking Requirements, shall be provided on the same lot as the use or uses that they are intended to serve, except as may be otherwise allowed where a conditional use permit is issued by the Planning Board pursuant Section 8.5, Alternative Parking Arrangements.

#### **8.1.4 Demarcation Required**

Parking spaces, loading spaces, stacking lanes, entry and exit drives, direction of traffic flow, and pedestrian ways shall be appropriately demarcated with pavement markings and signs. Signs used for these purposes are subject to the standards and requirements of Section 7, Sign Regulations.

### **8.2 Off-Street Parking Requirements**

#### **8.2.1 Computation of Number of Spaces Required**

Off-street parking spaces shall be provided in accordance with Section 8.2.5, Table of Off-street Parking Requirements. In computing total parking requirements for a land use, fractional numbers shall be summed. Where the sum of the parking space computations results in a fractional number, fractions of one-half (1/2) or more shall be counted as one (1).

#### **8.2.2 Parking Requirements for Uses not listed**

The parking requirement for a use that does not fall within one of the categories in Section 8.2.5, Table of Off-street Parking Requirements, shall be as required for the closest similar use, as determined by the Zoning Code Enforcement Officer.



### **8.2.3 Requirements Where There Are Multiple Uses or Buildings on a Lot**

Where more than one principal use or more than one structure are located on the same lot, the parking requirements shall be computed for each use or structure, and the number of spaces provided shall not be less than the sum of the number of spaces so calculated, except where a conditional use permit has been granted by the Planning Board pursuant to Section 8.5, Alternative Parking Arrangements.

### **8.2.4 Parking Requirements for Public Assembly Uses**

Parking shall be provided for any use, which involves spectator seating within an area of public assembly, including but not limited to such uses as a theater, concert hall, auditorium, gymnasium, field house, conference centers, or banquet room. Where the parking requirement for a public assembly use listed in the Section 8.2.5, Table of Off-street Parking Requirements, is indicated as a function of seating capacity, that capacity shall be based on the fixed seating capacity determined under the requirements of the Life Safety Code.

### **8.2.5 Table of Off-street Parking Requirements**

[Table begins on next page]

| PRINCIPAL USES   | UNIT OF MEASUREMENT  | MINIMUM SPACES REQUIRED PER UNIT OF MEASUREMENT  |
|--|--|--|
| <b>A. RESIDENTIAL</b>  |  |  |
| Single family dwelling   | Dwelling unit  | Two (2)  |
| Two - family dwelling  | Dwelling unit  | Two (2)  |
| Multi-family dwelling  | Dwelling unit  | Two (2)  |
| Manufactured home  | Dwelling unit  | Two (2)  |
| Manufactured housing park  | Dwelling unit  | Two (2)  |
| Multi-family dwelling units for the elderly including assisted living units  | Dwelling unit  | One (1)  |
| Multi-family dwelling units in a building accommodating non-residential uses | Dwelling unit  | One (1)  |
| <b>B. EDUCATIONAL AND INSTITUTIONAL</b>                                      |  |  |
| Elementary and secondary schools   | Classrooms plus seating or gross floor area of public assembly use*                              | Elementary & JHS: Two (2) per classroom plus required parking for public assembly use. High school: Seven (7) per classroom plus required parking for public assembly use  |
| Post secondary schools or colleges with or without dormitories               | Classrooms plus dormitory beds plus seating capacity or gross floor area of public assembly use* | Non-residential: Fifteen (15) per classroom plus required parking for public assembly use. Residential: Five (5) per classroom plus one (1) for every two (2) dormitory beds plus required parking for public assembly use |
| Group child day care center  | Gross floor area   | One (1) per one hundred fifty (150) square feet  |
| Churches and synagogues  | Seating capacity or gross floor area of public assembly use*                                     | As required for public assembly areas  |
| Cemeteries   | Gross floor area of office plus seating capacity or gross floor area of public assembly use*     | One (1) per three hundred (300) square feet office plus required parking for public assembly use   |
| Libraries and museums  | Gross floor area   | One (1) per three hundred (300) square feet  |
| Private membership fraternal and social organization or club                 | Seating capacity or gross floor area for public assembly use*                                    | As required for public assembly areas  |

| C. SERVICES: ENTERTAINMENT AND RECREATION   |  |   |
|---|--|---|
| Concert halls or indoor theaters  | Seating capacity or gross floor area for public assembly use*            | As required for public assembly areas   |
| Commercial indoor recreational facility   | Gross floor area   | One (1) per two hundred (200) square feet   |
| Privately owned outdoor recreation facility<br>Golf Course<br>Miniature Golf<br>Tennis Court<br>Swimming Pool | Golf green<br>Miniature golf hole<br>Court<br>Surface water area of pool | Six (6) per green<br>Two (2) per hole<br>Three (3) per court<br>One (1) per one hundred (100) square feet   |
| Campgrounds and youth camps   | Campsite<br><br>Bunkhouses and tent sites                                | One and one-fourth (1.25) per site<br>Minimum of six (6) plus two (2) per bunkhouse plus two (2) per tent site  |
| D. SERVICES: PERSONAL AND BUSINESS  |  |   |
| Service uses - general personal and business  | Gross floor area   | One (1) per two hundred (200) square feet   |
| Mortuary or funeral home  | Seating capacity or gross floor area for public assembly use*            | As required for public assembly areas   |
| E. SERVICES: MEDICAL, FINANCIAL AND PROFESSIONAL  |  |   |
| Hospitals   | Licensed beds plus gross floor area devoted to outpatient or day service | Two (2) per bed, plus one (1) per one hundred fifty (150) square feet of outpatient or day service space  |
| Nursing homes   | Licensed occupancy   | One half (0.5) per licensed occupant  |
| Offices of health care practitioners including outpatient health care   | Gross floor area   | One (1) per one hundred fifty (150) square feet   |
| General business, professional, and governmental offices  | Gross area by floor  | One (1) per two hundred (200) square feet of 1st floor area; plus one (1) per three hundred (300) square feet of all other floors above and below the first floor |
| Banking and financial services  | Gross floor area plus drive-through lanes                                | One (1) per two hundred (200) square feet plus five (5) stacking spaces per lane  |
| F. SERVICES: LODGINGS AND RESTAURANTS   |  |   |
| Hotels or motels  | Guest rooms  | One and one tenth (1.1) per room  |
| Inns  | Guest rooms  | One and one tenth (1.1) per room  |
| Bed and breakfast   | Guest rooms  | Min. of two (2) plus one (1) per room   |

|  |  |   |
|--|--|---|
| Restaurant   | Gross floor area, plus for take-out food counter service, plus drive-thru windows or ordering stations | One (1) per seventy-five (75) square feet, plus five (5) spaces when take-out food counter service is available**, plus five (5) stacking spaces per window/station |
| <b>G. RETAIL TRADE (except motorized vehicle and restaurant uses)</b>        |  |   |
| Sales of goods and merchandise - general                                     | Gross floor area and outside area devoted to display of goods for sale                                 | One (1) per two hundred (200) square feet   |
| Sales of garden supplies with extensive outdoor storage of inventory         | Gross floor area and outside area devoted to display of goods for sale                                 | One (1) per six hundred (600) square feet, plus one (1) per three thousand (3,000) square feet of outside merchandise display area                                  |
| Adult video or book store; adult motion picture theater; or adult theater    | Gross floor area of retail plus seating capacity or gross floor area of theater                        | One (1) per two hundred (200) square feet retail area plus required parking for public assembly uses  |
| <b>H. MOTOR VEHICLE SALES AND SERVICE</b>                                    |  |   |
| Sales or rental of motor vehicles, boats, trailers, or recreational vehicles | Gross floor area plus outside display area   | One (1) per six hundred (600) square feet plus one (1) per three thousand (3,000) square feet outside display area  |
| Sales, rental or repair of construction equipment                            | Gross floor area plus outdoor display area, plus number of repair bays                                 | One (1) per six hundred (600) square feet gross floor area, plus one (1) per three thousand (3,000) square feet outdoor display area, plus four (4) per repair bay  |
| Motor vehicle repair, service, and towing, including body work               | Repair bay   | Four (4) per bay  |
| Retail sale of gasoline  | Gross floor area plus fuel pump nozzles  | One (1) for every two hundred (200) square feet plus stacking space of one and a half (1 1/2) per fuel nozzle   |
| Car washes: Self-service:  | Bay or stall   | Minimum of two (2) plus two (2) stacking spaces per bay or stall  |
| Automatic:   | Bay or stall   | Minimum of two (2) plus five (5) stacking spaces per bay or stall   |
| Sale and installation of parts and accessories                               | Gross floor areas plus service bays or stall   | One (1) per two hundred (200) SF plus two (2) stacking spaces per bay or stall  |
| <b>I. TRANSPORTATION, COMMUNICATIONS AND UTILITIES</b>                       |  |   |
| Bus, taxi or railroad passenger station                                      | Gross floor area   | One (1) per one hundred 100 square feet   |
| Truck or rail freight terminal   | Gross floor area   | One (1) per one thousand (1,000) square feet  |
| Heliport   | Aircraft tie-downs or  | One (1) per five (5) tie downs/storage  |

|  |  |  |
|--|--|--|
|  | storage bays and gross floor area of terminal facility                   | bays, plus one (1) per forty (40) square feet of terminal floor area   |
| Wholesale and distribution facilities              | Gross floor area   | One (1) per one thousand (1,000) square feet   |
| Bulk fuel storage for distribution                 | Gross floor area   | Minimum of two (2) plus one (1) per one thousand (1,000) square feet   |
| <b>J. MANUFACTURING AND CONSTRUCTION</b>           |  |  |
| Manufacturing, fabrication and assembly industries | Gross floor area   | One (1) per five hundred (500) square feet   |
| Materials research and testing laboratories        | Gross floor area   | One (1) per five hundred (500) square feet   |
| Materials recycling and processing                 | Gross floor area and outside storage yard area                           | One (1) per five hundred (500) square feet gross floor area plus one (1) per five thousand (5,000) square feet of outside storage area |
| Building contractor yards                          | Yard storage area  | One (1) per two thousand (2,000) square feet of yard area  |
| <b>K. AGRICULTURAL</b>                             |  |  |
| Commercial greenhouses                             | Gross sales area   | One (1) space per five hundred (600) square feet of product sales area   |
| Stables and equestrian centers                     | Stalls plus seating capacity or gross floor area of public assembly use* | One half (0.5) per stall plus required parking for public assembly area  |
| Commercial kennel                                  | Gross floor area   | One (1) per five hundred (500) square feet   |
| Veterinary hospital                                | Gross floor area   | One (1) per five hundred (500) square feet   |
| Sawmill  | Employees and sales area   | One (1) per employee of largest shift, plus one space per two hundred (200) square feet of sales area                                  |

\*Parking Requirement for Areas of Public Assembly. Whenever a fixed seating capacity can be determined for an area devoted to public assembly, the required parking shall be computed at the ratio of one (1) parking space for every three (3) seats. If the public assembly area does not provide for fixed seating, then the parking requirement shall be computed at the ratio of one (1) space per forty- (40) square feet of gross floor area.

\*\* Parking Requirement for Take-Out Food Counter Service. This requirement may be waived in part, or in its entirety, by the Planning Board through its site plan review process.

|  |                              |   |
|--|------------------------------|---|
| ACCESSORY USES   |                              |   |
| A. ACCESSORY TO A PRINCIPAL RESIDENTIAL USE                          |                              |   |
| Home occupation  | Not applicable               | Satisfied by dwelling minimum   |
| Day care home facilities   | Minimum or licensed capacity | Minimum of one (1) per facility or one (1) per 6 children licensed capacity |
| Accessory attached dwelling unit                                     | Dwelling unit                | One (1)   |
| B. ACCESSORY TO A PRINCIPAL NON-RESIDENTIAL USE                      |                              |   |
| Farm market or roadside stand:                                       | Acres in cultivation         |   |
| Strawberries and similar products                                    |                              | Minimum five (5) plus one (1) per acre                                      |
| Christmas trees and similar products                                 |                              | Minimum three (3) plus one-fourth (1/4) per acre                            |
| Apples and similar products  |                              | One half (1/2) per acre   |
| Dwelling unit for resident caretaker or security personnel           | Dwelling unit                | Two (2) per unit  |
| Retail sales accessory to a principal manufacturing or wholesale use | Gross floor area             | One (1) per two hundred (200) square feet                                   |

#### **8.2.6 Requirements for Stacking Spaces for Drive-Through Facilities**

Stacking spaces for uses incorporating drive-through services shall be located on the same lot as the principal use, shall not interfere with other required parking and loading spaces or access aisles to said parking and loading spaces, and shall minimize or avoid conflict with pedestrian circulation and access. The number of stacking spaces required for individual uses shall be as provided in Section 8.2.5, Table of Off-Street Parking Requirements, and shall be sufficient to insure that no stacking occurs within the right-of-way of any adjacent street.

### 8.2.7 Requirements for Handicapped Accessible Parking Spaces

Handicapped accessible spaces for vans and passenger cars shall be provided in accordance with the following standards. One in every eight accessible spaces, but not less than one, shall be designed and designated for vans.

| Table of Requirements for Handicapped Accessible Parking Spaces |  |
|---|--|
| Total Spaces In Parking Area                                    | Required minimum number of accessible spaces |
| 1 to 25   | 1  |
| 26 to 50  | 2  |
| 51 to 75  | 3  |
| 76 to 100   | 4  |
| 101 to 150  | 5  |
| 151 to 200  | 6  |
| 201 to 300  | 7  |
| 301 to 400  | 8  |
| 401 to 500  | 9  |
| 501 to 1000   | 2 percent of total                           |
| 1001 and over   | 20 plus 1 for each 100 over 1000             |
|   |  |
|   |  |

## 8.3 Parking Area Design Standards

Parking area design shall be regulated by the following provisions:

### 8.3.1 Standard Parking Spaces

Each standard parking space shall contain a rectangular area of at least eighteen and one-half (18.5) feet in length and nine (9) feet in width, except where the spaces are located parallel to the travel aisles, the length shall be increased to twenty-two (22) feet.

### 8.3.2 Handicapped Accessible Spaces

Parking spaces for passenger vehicles carrying handicapped individuals shall contain a rectangular area of at least eighteen and one-half (18.5) feet in length and eight (8) feet in width, together with an access way of five (5) feet in width immediately adjacent to the parking space, for a total of thirteen (13) feet in width. Parking spaces for vans carrying handicapped individuals shall contain a rectangular area of at least eighteen and one-half (18.5) in length and eight (8) feet in width together with an access way of eight (8) feet in width immediately adjacent to the parking space, for a total of sixteen (16) feet in width. Two (2) adjacent parking spaces for the handicapped may share one (1) access way. All handicapped accessible parking shall be designated as such by a sign in accordance with Section 7.3, Exceptions to Permit Requirements, bearing the symbol of accessibility, and located such that it will not be obscured

by a vehicle parked in the space.

### **8.3.3 Minimum Aisle Width**

Aisles in parking lots shall be at least twenty-four (24) feet in width for two-way traffic. Parking spaces at an angle of less than ninety (90) degrees shall provide for one way traffic flow, and aisles shall be provided at the minimum widths shown below:

| Angle To Drive<br>(Degrees) | Minimum Aisle Width<br>For One-way Traffic |
|-----------------------------|--|
| 90                          | 24 feet                                    |
| 60                          | 18 feet                                    |
| 45                          | 16 feet                                    |
| 30                          | 15 feet                                    |
| 0                           | 15 feet                                    |

### **8.3.4 Driveway Widths**

Driveways connecting parking lots to a street or another parking lot shall be at least twenty-four (24) feet in width for two-way traffic flow and at least twelve (12) feet in width for one-way traffic flow. No driveway shall exceed twenty-eight (28) feet in width except where the Planning Board requires a driveway of three (3) lanes or more as part of the approval of a site plan pursuant to Section 15.4.2, Site Plan Review.

### **8.3.5 Setbacks and Restrictions**

Except for the use of a driveway for parking in conjunction with one and two family dwellings, off-street parking shall not be located within the required front yard in a residential district. In non-residential districts, no off-street parking for any use shall occur within ten (10) feet of the front lot line. No off-street parking for any use in any district shall be located within five (5) feet of any side and rear lot lines, except that parking lots on adjacent parcels may be interconnected.

### **8.3.6 Surfacing and Drainage**

All parking areas and driveways shall have a durable and dust-free surface that shall be graded and drained so as to continuously dispose of all surface water. Surfacing materials shall be one of the following: asphalt, nick-pack, crushed stone, concrete, or crushed bank run gravel.

### **8.3.7 Illumination**

Lighting fixtures used to illuminate parking areas shall direct the light away from adjacent properties and away from traffic on adjacent streets. Lighting shall be designed to limit any increase in off-site illumination to a maximum of 0.2 foot-candles as measured at the side and rear lot lines, except where parking lots are interconnected.

## **8.4 Access and Driveway Standards**

### **8.4.1 Restrictions on Backing into a Street**

Except in connection with single-family detached dwellings and two-family dwellings, parking areas shall be designed so that, without resorting to extraordinary movements, vehicles may enter



and exit the parking area without backing within or into a street, and without inhibiting pedestrian safety.

#### **8.4.2 Separation of Driveways in Residential Districts**

Driveways entering streets in a residential districts shall be located at least thirty- (30) feet from street intersections, and at least forty- (40) feet from other existing driveways on the same lot or an adjacent lot. One (1) driveway is permitted per lot for the first one hundred (100) feet of lot frontage. One (1) additional driveway is permitted per lot for each additional one hundred fifty (150) feet of lot frontage after the first one hundred (100) feet of lot frontage. Where compliance cannot be achieved with these standards, the Planning Board may grant a conditional use permit pursuant to Section 8.5, Alternative Parking Arrangements.

#### **8.4.3 Separation of Driveways in Non-residential Districts**

Except where a conditional use permit has been granted by the Planning Board pursuant to Section 8.6, Alternative Parking Arrangements, the following standards are established in non-residential districts:

**8.4.3.1** For all local streets, driveways entering such streets shall be located at least one hundred twenty-five (125) feet from street intersections, and at least one hundred (100) feet from other existing driveways on the same lot or an adjacent lot. One (1) driveway is permitted per lot for the first one hundred fifty (150) feet of lot frontage. One (1) additional driveway is permitted per lot for each additional one hundred fifty (150) feet of lot frontage after the first one hundred fifty (150) feet of lot frontage.

**8.4.3.2** For all collector and arterial streets, driveways entering such streets shall be located at least two hundred (200) feet from street intersections, and at least two hundred (200) feet from other existing driveways on the same lot or an adjacent lot. One (1) driveway is permitted per lot for the first three hundred (300) feet of lot frontage. One (1) additional driveway is permitted per lot for each additional three hundred fifty (300) feet of lot frontage after the first three hundred (300) feet of lot frontage.

#### **8.4.4 Measurement of Separations**

The separation between public street intersections and driveways is measured from the point of intersection of the nearest edge of each of the street rights-of-way to the nearest edge of the driveway where it intersects with the right-of-way line. The separation between driveways is measured from the nearest edge of each driveway where it intersects with the street right-of-way.

### **8.5 Alternative Parking Arrangements**

In order to provide for more flexible alternatives to satisfy the parking requirements of this Section, the Planning Board may issue a conditional use permit for one or more alternative parking arrangements in the following circumstances.

#### **8.5.1 Off-site Parking**

Off-site parking may be authorized at a distance of no more than five hundred (500) feet from a principal use where the Planning Board finds that such off-site parking is appropriate for the characteristics and location of the use, and that the off-site parking can be provided without detriment to pedestrian and traffic safety. The off-site parking must be located in the same district as the principal use, or in another district in which the principal use is permitted by right, special exception or conditional use permit. The off-site parking must be permanently related to the principal use by easement, condominium declaration, or other recordable binding and recordable legal instrument, or a long-term lease that is coterminous with the principal use.

#### **8.5.2 Construction of Fewer Parking Spaces**

Authorization may be granted to construct fewer parking spaces than are required by 8.2.5, Table of Off Street Parking Requirements, provided that a sufficient land area is allocated and shown on a site plan for the full number of spaces required. Such authorization may be granted where the Planning Board finds that actual parking demand, the presence of public transportation, or other factors indicate that a lower number of parking spaces will sufficiently accommodate the parking needs of the principal use.

#### **8.5.3 Shared Parking Arrangements**

Two (2) or more principal uses may share parking spaces, either on a lot with one of the principal uses or on a site which is independent of all of the principal uses, provided that the Planning Board finds that the characteristics of the principal uses are such that the parking spaces will be occupied at different times by the respective uses that are sharing them, and that concurrent attempts at occupancy of the spaces will not occur. The parking spaces must be within five hundred (500) feet of all principal uses sharing said spaces; be located in the same district as the principal uses, or in another district in which the principal uses are permitted by right, special exception or conditional use permit; and comply with one of the following standards:

**8.5.3.1** Sufficient land area is allocated on the same lot with each principal use and a site plan prepared for the full number of spaces required to serve the respective use, or

**8.5.3.2** The parking spaces must be permanently related to each principal use by easement, condominium declaration, or other recordable binding and recordable legal instrument, or a long-term lease that is coterminous with the respective principal use.

#### **8.5.4 Driveway Separation Alternatives**

Where compliance cannot be achieved with the standards for driveway separation as contained in this Section, the Planning Board may permit a reduction in the dimension or dimensions that cannot be achieved in order to allow the establishment of driveway access to a lot, provided that the Board finds that the reduction in dimension is the most minimal reduction which will still allow the access to be established to the lot while minimizing to the greatest extent possible the potential conflicts of turning movements into and out of the driveway with other turning and through traffic movements on the adjacent street. In granting the permit, the Board may mandate the sharing of driveways and may establish conditions relative to the width of driveways, the number of entry and exit lanes, the installation or expansion of medians, the construction of

turning and bypass lanes, the installation or modification of signals, and other such conditions that will promote the safe and efficient movement of traffic.

## **8.6 Off-Street Loading Requirements**

### **8.6.1 Table of Off-street Loading Requirements**

In order to accommodate the delivery or shipment of goods or merchandise to a principal use, off-street loading spaces shall be provided in accordance with the following Table of Off-street Loading Requirements. Where more than one principal use or more than one structure are located on the same lot, the loading space requirements shall be computed for each use or structure, and the number of spaces provided shall not be less than the sum of the number of spaces so calculated for each use or structure. The loading space requirement for a use that does not fall within one of the categories in Table of Off-street Loading Requirements shall be as required for the closest similar use, as determined by the Zoning Code Enforcement Officer.

| TABLE OF OFF-STREET LOADING REQUIREMENTS |             |              |                |                 |                  |                       |
|--|-------------|--------------|----------------|-----------------|------------------|-----------------------|
| Gross Floor Area and Spaces Required     |             |              |                |                 |                  |                       |
| Principal Land Use                       | Under 5,001 | 5001- 20,000 | 20,001- 60,000 | 60,001- 100,000 | 100,001- 150,000 | Over 150,000 For Each |
| Manufacturing                            | 0           | 1            | 2              | 3               | 4                | 1                     |
| Freight Terminals                        | 1           | 1            | 2              | 3               | 4                | 1                     |
| Warehousing                              | 1           | 1            | 2              | 3               | 4                | 1                     |
| Retail                                   | 0           | 1            | 1              | 2               | 3                | 1                     |
| Financial & Prof Services                | 0           | 0            | 1              | 2               | 2                | 1                     |
| All Other Services                       | 0           | 0            | 1              | 2               | 3                | 1                     |
| Educational & Institutional              | 0           | 0            | 1              | 1               | 2                | 1                     |
| Residential                              | 0           | 0            | 1              | 2               | 3                | 1                     |

### **8.6.2 Location of Loading Spaces**

Loading spaces shall in all cases be located on the same lot as the principal use that they are intended to serve and may be located within the building containing the principal use. The area for required loading spaces shall not be used to satisfy parking space requirements, and vice-versa. Loading spaces shall be designed to allow a delivery vehicle to maneuver safely and conveniently to and from an adjacent street, and to complete the loading and unloading operation without obstructing or interfering with on-site fire lanes, parking spaces, or access aisles, and without any maneuvering, backing or standing on any street. With the exception of loading spaces at warehousing and freight terminal uses, all loading spaces shall be located at the side or rear of the building intended to be served. In the Village Commercial (VC) District, the Planning Board may grant a conditional use permit to allow loading to occur within the right-of-way of an adjacent street where the Board finds that the loading can not occur on the lot with the principal use in accordance with the requirements of this Section, and that the on-street loading will occur

at off-peak hours and in a manner that will not disrupt or endanger vehicular and pedestrian traffic.

#### **8.6.3 Design Standards**

Each loading space shall be of a minimum width of fourteen (14) feet, have a minimum height clearance of fourteen (14) feet above grade, and contain an area of not less than one thousand (1,000) square feet, including space for maneuvering.

#### **8.6.4 Surfacing and Drainage**

Loading areas and access driveways shall be surfaced with a durable and dustless material, which shall be graded and drained so as to continuously dispose of all surface water, in accordance with the requirements of Section 8.3.6, Surfacing and Drainage.

#### **8.6.5 Setbacks**

No loading space in a non-residential district shall be located within fifty- (50) feet of a residential district boundary or within fifty (50) feet of the lot line of an abutting residential use within a residential district. No loading space in any district shall be located within ten (10) feet of any property line.

#### **8.6.6 Screening**

Where loading areas are located within or abutting a residential district, a solid fence not less than six (6) feet nor more than eight (8) feet in height shall be erected and maintained in good condition around the loading area, and a landscaped buffer shall be established between such loading area and any adjacent lot lines from which the loading area is visible. The landscaped buffer shall be a year-round visual barrier that is created at a minimum height of six (6) feet and a depth of at least ten (10) feet from each such lot line.

#### **8.6.7 Illumination**

Lighting fixtures used to illuminate loading areas shall direct the light away from adjacent properties and away from traffic on adjacent streets. Lighting shall be designed to limit any increase in off-site illumination to a maximum of 0.2 foot-candles as measured at the lot lines.

### **8.7 Parking and Storage of Recreational Vehicles**

No recreational vehicles shall be parked or stored in a residential district except in a carport or enclosed building or in the rear yard area. No such equipment shall be used for living, sleeping, or housekeeping purposes.

### **8.8 Parking and Storage of Unregistered Vehicles**

In any district, not more than two unregistered motor vehicles or trailers shall be parked or stored, except in enclosed buildings, or in areas that have been designated for such parking and/or storage by Planning Board approved site plans, or in a residential district approved by

Special Exception by the ZBA, subject to appropriate screening, setback and other conditions, or less than 4 vehicles or trailers are stored in a location and manner approved by the zoning administrator. As used herein, unregistered motor vehicle or trailer shall mean a motor vehicle or trailer that would be subject to state vehicle registration if operated or transported on public highways, but which does not have a current valid number plate, or plates attached.

### **8.9 Parking and Storage of Certain Vehicles in a Residential District**

No vehicle with a gross vehicle weight rating (GVWR) of more than twenty-six thousand (26,000) pounds shall be parked or stored in a residential district other than registered farm vehicles operated by a farmer within a one hundred fifty (150) mile radius of his farm, emergency vehicles of a fire department, military vehicles operated in an official capacity, and recreational vehicles.

## **Section 9 Outdoor Lighting**

### **9.1 Purpose**

It is the intent of this section to maintain Goffstown's character and to prevent further reduction of visibility of the night sky, to insure efficient use of lighting, and to reduce unsafe or annoying lighting conditions.

### **9.2 Location and Height**

Any new outside lighting whether for area illumination, sign illumination, building illumination, or other purpose, shall be mounted at a height equal to or less than the value  $3 + (D/3)$ , where D is the distance in feet to the nearest property boundary. The maximum height of the light source shall not exceed 25 feet.

### **9.3 Light Projection**

Any new outside lighting, whether for area illumination, sign illumination, building illumination, or other purpose, shall project no more than 3% of its light rays above the horizon from the lamp, its lens structure or any associated reflector. In addition, any new lighting greater than 20 foot-candles on the ground requires the submission of a detailed engineering lighting plan, and the receipt of a lighting permit from the zoning administrator.

### **9.4 Exceptions**

Exceptions include all temporary lighting required for public or private construction projects, all temporary emergency lighting related to police, fire or other emergency services, all hazard warning luminaries required by Federal regulatory agencies, to the degree and extent required, and all seasonal, decorative lighting displays using multiple low wattage bulbs. The Planning Board may grant exceptions for outdoor recreational facilities and for historic purposes by Conditional Use Permit.

## **Section 10 MANUFACTURED HOMES & MANUFACTURED HOME PARKS**

### **10.1 Manufactured Homes**

#### **10.1.1 Intent**

It is the intent of this Ordinance to offer reasonable opportunities for the siting of manufactured housing in accordance with the provisions of RSA 674:32, Manufactured Housing.

#### **10.1.2 General Provisions**

**10.1.2.1** No manufactured home shall be occupied in the Town of Goffstown as a residence for living, sleeping, cooking or for the conduct of any occupation, except in a properly approved manufactured home subdivision, or a manufactured home park. A manufactured home subdivision is subject to approval by the Planning Board pursuant to the Town of Goffstown Subdivision Regulations. Approval of a manufactured home park is subject to the granting of a conditional use permit by the Planning Board, in accordance with Section 9.2, Manufactured Home Parks, as well as approval of a subdivision approval by the Planning Board pursuant to the Town of Goffstown Subdivision Regulations.

**10.1.2.2** A manufactured home may be occupied as a temporary residence during construction on a lot for which a building permit has been issued, and a manufactured home may be used as a temporary office incidental to construction on or development of the premises on which the manufactured home is located for a period of one (1) year. A permit for such use may be extended by the Board of Selectmen, but not for more than one (1) additional year.

**10.1.2.3** The provisions of this section shall not apply to manufactured homes that are the stock in trade of dealers, available for sale and resale on a site dedicated to such purpose, provided that the manufactured homes remain unoccupied.

**10.1.2.4** Only manufactured homes manufactured since June 15, 1976, which have been built in accordance with the National Mobile Home Construction and Safety Standards Act of 1974, shall be permitted in the Town of Goffstown. These standards are comparable to the 1976 Uniform Building Code for Single Family Dwellings.

**10.1.2.5** The placement of manufactured homes is prohibited within the designated Regulatory Floodway, except in existing manufactured home parks.

**10.1.2.6** Manufactured homes used as single residences in the Town of Goffstown as of December 31, 1986, and not in conformance with the provisions of this section, may be continued subject to the following conditions:

**10.1.2.6.1** Such a manufactured home, once voluntarily removed from the site for the discontinuance of its use, shall not be returned to the site, nor shall such a manufactured home be replaced by another manufactured home; and

**10.1.2.6.2** Normal maintenance and repairs of such a manufactured home shall be permitted provided that no structural alterations are made to the home.

## **10.2 Manufactured Home Parks**

### **10.2.1 Application, Review, and Administrative Processes**

A conditional use permit and a subdivision approval are required for the establishment of a Manufactured Housing Park or expansion or alteration of an existing manufactured housing park. An application shall be filed with the Planning Board for a conditional use permit and a subdivision approval. The application, review, and administrative processes shall be as specified in Section 15.4.1, Conditional Use Permits, and Section 15.4.2, Subdivision Approval, and in the Town of Goffstown Subdivision Regulations, as augmented by the provisions and standards contained in this Section.

### **10.2.2 Application Requirements**

An application for a Conditional Use Permit shall be submitted to the Planning Board that includes a set of plans, drawn to scale, showing the following information:

**10.2.2.1** The area and dimensions of the tract of land;

**10.2.2.2** The maximum number, location, and size of all manufactured home spaces;

**10.2.2.3** The location of any existing or proposed buildings, structures or improvements to the site;

**10.2.2.4** The location and width of roadways and walkways;

**10.2.2.5** The location of water, sewer, gas, telephone and electrical lines and sewage disposal systems;

**10.2.2.6** A complete storm sewer and drainage design of the site;

**10.2.2.7** A complete landscape design of the site; and

**10.2.2.8** Any other information as required by the Planning Board.

### **10.2.3 Development Standards**

Manufactured home parks shall conform to the following minimum standards in addition to all pertinent State and local health requirements and regulations.



**10.2.3.1 Location** - No manufactured home park shall be located as to be (i) inaccessible from good roads; (ii) on poorly drained land or on land unsuitable for a subsurface disposal system if a public sewer system is unavailable; (iii) on land subject to flooding or erosion; (iv) in a location that represents a fire or traffic hazard; or (v) on land which is exposed to chronic nuisances such as noise, smoke, fumes, and odors. The applicant shall bear the burden of establishing, to the satisfaction of the Planning Board, that the land is suitable for such development.

**10.2.3.2 Access** - No manufactured home park shall be developed unless adequate access for manufactured homes and attached vehicles, fire-fighting equipment, fuel delivery, refuse collection, and other vehicles is provided. Where the manufactured home park does not abut directly on a street, a paved access road, located within a right-of-way of not less than fifty- (50) feet, shall be provided.

**10.2.3.3 Minimum Tract Area** - A manufactured home park shall be located on a tract of not less than two (2) acres in area, and shall include the provision for (1) necessary access and internal roads; (2) adequate off-street parking for motor vehicles; and (3) essential service, play, maintenance, and office facilities.

**10.2.3.4 Grading** - Every lot used for a manufactured home park shall be properly graded and drained for disposal of surface runoff and storm water.

**10.2.3.5 Street Construction** - Every access road and service street within a manufactured home park shall meet the minimum design standards for streets as contained in the Town of Goffstown Subdivision Regulations. All access and internal streets and roads shall be adequately lighted and identified by signs of a design approved by the Planning Board.

**10.2.3.6 Individual Manufactured Home Spaces** – No individual manufactured home space shall contain less than ten thousand (10,000) square feet of land, and such space shall be not less than one hundred (100) feet wide and one hundred (100) feet deep. The bounds of each space shall be clearly marked and the space shall be surfaced or seeded to provide adequate drainage beneath and adjacent to any manufactured home thereon.

**10.2.3.7 Manufactured Home Space Setbacks** - Each manufactured home shall be placed no closer than fifteen (15) feet to any boundary line of any manufactured home space, and there shall be not less than thirty- (30) feet of separation between any two (2) adjacent manufactured homes, or any manufactured home and a service building.

**10.2.3.8 Setbacks from Park Perimeter** - No manufactured home, or service building used in connection therewith, shall be permitted within one hundred (100) feet of street upon which the manufactured home park tract fronts, or within seventy-five (75) feet of any other property line forming the perimeter of such tract, or within one hundred (100) feet of any residential building located on any adjacent lot.

**10.2.3.9 Screening of Manufactured Home Parks** - A green strip of at least ten (10) feet in width shall be maintained adjoining the boundaries of the manufactured home park tract and shall be planted with trees or shrubs to provide a permanent screen.

**10.2.3.10 Manufactured Home Storage** - No unoccupied manufactured home shall be stored or exhibited for sale for commercial purposes within a manufactured home park or in any residence district.

**10.2.3.11 Parking Spaces** - Parking spaces shall be provided for each individual manufactured home within its manufactured home space in accordance with the requirements and design standards of Section 8, Parking and Loading Requirements, and all such spaces shall be maintained in good repair.

**10.2.3.12 Service Area** - For every four (4) manufactured home spaces, a minimum of one hundred fifty (150) square feet of laundry drying space shall be provided in every manufactured home park. Such laundry drying space shall not be located between the street and the manufactured homes, but rather shall be so located as to be as inconspicuous as possible from the adjacent street. Such laundry drying spaces shall have a well-drained, stabilized and paved surface, maintained in good repair, and shall be surrounded by a fence or hedge of at least six (6) feet in height.

**10.2.3.13 Recreational Area** - A minimum of one hundred (100) square feet of play space per manufactured home space shall be provided for recreational purposes, and restricted exclusively to such use. Such recreational spaces shall be protected by appropriate fencing from streets and parking areas, and shall have a well-drained, stabilized or paved surface, maintained in good repair.

**10.2.3.14 Utility Services** - Every manufactured home shall be provided with adequate utility and sanitation services including water supply, sewage disposal, electric power, bottled or public gas service, heating equipment and fuels, refuse and garbage storage and disposal, and insect and rodent control, in conformity with all pertinent state and local health regulations and requirements.

**10.2.4 Annual Permit Renewal Fee**

All manufactured home parks are subject to an annual permit renewal fee. The Building Code Enforcement Officer or Selectmen upon receipt of written application, may issue a manufactured home park renewal permit, after having inspected the manufactured home park to determine that the park meets all necessary State and local health and safety requirements. Manufactured home park renewal fee will be one hundred (\$100.00) dollars. Such permits are renewable before January 10th of each year.

**10.2.5 Utility Requirements and Permit Fees**

Sanitary and utility requirements, and the permit fees established by this Ordinance shall apply to manufactured home parks existing within the Town of Goffstown as of December 31, 1986.

## **Section 11 TELECOMMUNICATION FACILITIES**

### **11.1 Purpose and Goals**

The purpose of this Section is to establish general guidelines for the siting of telecommunications towers and antennas and to enhance and fulfill the following goals:

**11.1.1** Preserve the authority of the Town to regulate and to provide for reasonable opportunity for the siting of telecommunications facilities, by enhancing the ability of providers of telecommunications services to provide such services to the community quickly, effectively, and efficiently;

**11.1.2** Reduce adverse impacts such facilities may create, including, but not limited to; impacts on aesthetics, environmentally sensitive areas, scenic vistas, historically significant locations, flight corridors, health and safety by injurious accidents to person and property, and prosperity through protection of property values;

**11.1.3** Provide for co-location and minimal impact siting options through an assessment of technology, current location options, future available locations, innovative siting techniques, and siting possibilities beyond the political jurisdiction of the Town;

**11.1.4** Permit the construction of new towers only where all other reasonable opportunities have been exhausted, and to encourage the users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas;

**11.1.5** Require cooperation and co-location, to the highest extent possible, between competitors in order to reduce cumulative negative impacts upon the Town;

**11.1.6** Provide constant maintenance and safety inspections for any and all facilities;

**11.1.7** Provide for the removal of abandoned facilities that are no longer inspected for safety concerns and code compliance. Provide a mechanism for the Town to remove these abandoned towers to protect the citizens from imminent harm and danger; and

**11.1.8** Provide for the removal or upgrade of facilities that are technologically outdated.

### **11.2 Applicability**

**11.2.1** Public Property - Antennas or towers located on property owned, leased, or otherwise controlled by the Town of Goffstown may be exempt from the requirements of

this Section, except that such uses are only permitted in the districts in accordance with Section 3.8, Table of Principal Uses. This exemption shall be available if a license or lease authorizing such antenna or tower has been approved by the governing body, and the governing body elects, subject to state law, local ordinance and the Site Plan Review Regulations, to seek the exemption from this Section.

**11.2.2 Amateur Radio; Receive-Only Antennas** - As referenced in RSA 674:16, IV, this Section shall not govern any tower, or the installation of any antenna that is under seventy (70) feet in height and which is owned and operated by a federally-licensed amateur radio station operator or is used exclusively for receive only antennas.

**11.2.3 Essential Services and Public Utilities** - Telecommunications facilities shall not be considered infrastructure, essential services, or public utilities, as defined or used elsewhere in the Town's ordinances and regulations. Siting for telecommunication facilities is a use of land, and is addressed by this Section.

### **11.3 Application and Review Process**

**11.3.1 Conditional Use Permit Required** - All applicants under this Section shall apply to the Planning Board for a conditional use permit in accordance with Section 15.4.1, Conditional Use Permits, and for Site Plan Review, in accordance with the requirements as provided for in the Town's Site Plan Review Regulations.

**11.3.2 Application Requirements** - Each applicant requesting a Conditional Use Permit under this Section shall submit a plan to scale in accordance with the requirements of the Site Plan Review Regulations, an abutters list that includes the local and regional offices of the FAA and the Manchester Airport, and additional information including: a scaled elevation view; topography; radio frequency coverage; proposed tower height; setbacks; drives; parking; fencing; landscaping; adjacent land uses within two hundred (200) feet; and any other information deemed necessary by the Planning Board to assess compliance with this Section. Furthermore, the applicant shall submit the following information and materials prior to any decision by the Planning Board:

**11.3.2.1** The applicant shall submit written proof that the proposed use/facility complies with the FCC regulations on radio frequency (RF) exposure guidelines;

**11.3.2.2** The applicant shall submit written proof that an evaluation has taken place, as well as the results of such evaluation, satisfying the requirements of the National Environmental Policy Act (NEPA) further referenced in applicable FCC rules. If an Environmental Assessment (EA) or an Environmental Impact Statement (EIS) is required under the FCC rules and NEPA, submission of the EA or EIS to the Planning Board prior to the beginning of the federal thirty (30) day comment period, and the conditional use permit process, shall become part of the application requirements;

**11.3.2.3** Each applicant for an antenna and or tower shall provide to the Planning Board an inventory of its existing towers that are within the jurisdiction of the Town and those within two (2) miles of the border thereof, including specific information about the location, height, design of each tower, as well as economic and technological feasibility for co-location on the inventoried towers. The Planning Board may share such information with other applicants applying for approvals or conditional use permits under this section or other organizations seeking to locate antennas within the jurisdiction of the governing authority, provided, however that the Planning Board is not, by sharing such information, in any way representing or warranting that such sites are available or suitable;

**11.3.2.4** If the applicant is proposing to build a new tower, the applicant shall submit written evidence demonstrating that no existing structure can accommodate the applicant's proposed antenna. This evidence can consist of:

**11.3.2.4.1** Substantial evidence that no existing towers or structures are located within the geographic area which meets the applicant's engineering requirements, provided that a description of the geographic area required is also submitted;

**11.3.2.4.2** Substantial evidence that existing towers are not of sufficient height to meet the applicant's engineering requirements, and why;

**11.3.2.4.3** Substantial evidence that the existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment;

**11.3.2.4.4** Substantial evidence that applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna;

**11.3.2.4.5** Substantial evidence that the fees, costs, or contractual provisions required by the owner in order to share the existing tower or structure are unreasonable. Costs exceeding new tower development are presumed to be unreasonable; or

**11.3.2.4.6** Substantial evidence that the applicant can demonstrate other limiting factors that render existing towers and structures unsuitable;

**11.3.2.4.7** The applicant proposing to build a new tower shall submit an agreement with the Town that allows for the maximum allowance of co-location upon the new structure. Such statement shall become a Condition to any Approval. This statement shall, at a minimum, require the applicant to supply available co-location for reasonable fees and costs to other telecommunications providers. Failure to provide such an agreement is evidence of the applicant's

unwillingness to cooperate with the orderly and well-planned development of the Town of Goffstown, and grounds for a denial.

**11.3.2.4.8** The applicant shall submit the engineering information detailing the size and coverage required for the facility location. The Planning Board may have any submitted information reviewed by a consultant for verification of any claims made by the applicant regarding technological limitations and feasibility for alternative locations, or any other matter required by the application. Cost for this review shall be borne by the applicant in accordance with 676:4 I (g).

**11.3.2.4.9** The applicant shall submit as built engineering drawings of the tower and antennae locations.

**11.3.2.5** Applications for co-locations shall provide a written engineers certification that the tower or structure being co-located on will safely accommodate the antennae without risk to public safety.

**11.3.2.6** Factors to be Considered in Reaching a Decision - In addition to the findings required for all conditional use permits pursuant to Section 15.4.1, Conditional Use Permit, the Planning Board shall consider the following factors in reaching a decision on an application:

**11.3.2.6.1** Height of proposed tower or other structure.

**11.3.2.6.2** Proximity of tower to residential development or zone;

**11.3.2.6.3** Nature of uses on adjacent and nearby properties;

**11.3.2.6.4** Surrounding topography;

**11.3.2.6.5** Surrounding tree coverage and foliage;

**11.3.2.6.6** Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;

**11.3.2.6.7** Proposed ingress and egress to the site;

**11.3.2.6.8** Visual impacts on viewsheds, ridgelines, and other impacts by means of tower location, tree and foliage clearing and placement of incidental structures; and

**11.3.2.6.9** Availability of alternative tower structures and alternative siting locations having less adverse impact on the community.

#### **11.4 Telecommunications Facilities Considered a Principal Use**

Subject to this Section, antennas or towers may be considered either the sole principal use of a property, or may be allowed as a secondary principal use. An existing use or an existing structure on the same lot shall not preclude the installation of an antenna or tower on such lot. For the purposes of determining whether the installation of a tower or antenna complies with district regulations, including but not limited to setback requirements, lot coverage requirements, and other such requirements, the dimensions of the entire lot shall control, even though the antenna or tower may be located on leased parcels within such lots. Towers that are constructed, and antennas that are installed, in accordance with the provisions of this Section, shall not be deemed to constitute the expansion of a nonconforming use or structure nor shall such facilities be deemed to be an accessory use.

#### **11.5 Development Design and Performance Standards**

**11.5.1 Height Requirements** - These requirements and limitations shall preempt all other height limitations as required by this Ordinance and shall apply only to telecommunications facilities:

| DISTRICT                | MAXIMUM HEIGHT          |                                    |  |
|-------------------------|-------------------------|------------------------------------|--|
|                         | Construction of a Tower | Co-location on a an Existing Tower | Co-location on a an Existing Structure |
| Agricultural (A)        | 130 ft                  | Current Height + 15% *             | Current Height + 30% *                 |
| Conservation (CO)       | 130 ft                  | Current Height                     | Current Height + 30%                   |
| Residential (R-1 & R-2) | (Not permitted)         | Current Height                     | Current Height                         |
| Commercial (C)          | 130 ft                  | Current Height + 20% *             | Current Height + 40% *                 |
| Industrial (I)          | 130 ft                  | Current Height + 20% *             | Current Height + 40% *                 |
| RSBO                    | (Not permitted)         | Current Height                     | Current Height                         |

\*At the discretion of the Planning Board based upon the goals and provisions of this section

**11.5.2 Aesthetic and Lighting** - These standards shall govern the location of all towers, and the installation of all antennas.

**11.5.2.1** Towers shall either be maintained with a galvanized steel finish, subject to any applicable standards of the FAA, or be painted a neutral color, so as to reduce visual obtrusiveness;

**11.5.2.2** At a tower site, the design of the buildings and related structures shall, to the maximum extent possible, use materials, colors, textures, screening, and landscaping that will blend the tower facilities with the natural setting and built environment. These buildings and facilities shall also be subject to all other Site Plan Review Regulation requirements;

**11.5.2.3** If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible;

**11.5.2.4** Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the Planning Board may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding views; and

**11.5.2.5** Towers shall not contain any permanent or temporary signs, writing, symbols, or any graphic representation of any kind.

**11.5.3 Federal Requirements** - All towers must meet or exceed current standards and regulations of the FAA, FCC, and any other agency of the federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this Section shall bring such towers and antennas into compliance with such revised standards and regulations within six (6) months of the effective date of such standards and regulations, unless a more stringent compliance schedule is mandated by the controlling federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall be deemed to constitute abandonment in accordance with this Section, and grounds for the removal of the tower or antenna at the owners expense through the execution of the posted security.

**11.5.4 Building Codes-Safety Standards** - To ensure the structural integrity of towers and antennas, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable Town building codes and the applicable standards for towers that are published by the Electronic Industries Association, as amended from time to time. If, upon inspection, the Town concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have thirty- (30) days to bring



such tower into compliance with such standards. If the owner fails to bring such tower into compliance within thirty- (30) days, such action shall constitute abandonment in accordance with this Section, and grounds for the removal of the tower or antenna at the owners expense through execution of the posted security.

**11.5.5 Additional Requirements** - These requirements shall supersede any and all other applicable standards found elsewhere in Town Ordinances or Regulations that are less strict.

#### **11.5.5.1 Setbacks and Separation**

**11.5.5.1.1** Towers must be set back a distance equal to one hundred twenty-five (125) percent of the height of the tower from any lot line;

**11.5.5.1.2** Tower, guys, and accessory facilities must satisfy the minimum district setback requirements;

**11.5.5.1.3** Towers over ninety (90) feet in height shall not be located within one-quarter mile of any existing tower that is over ninety (90) feet in height.

**11.5.5.2 Security Fencing** - Towers shall be enclosed by security fencing not less than six (6) feet in height and shall also be equipped with an appropriate anti-climbing device.

#### **11.5.5.3 Landscaping**

**11.5.5.3.1** The area around the tower site shall be landscaped, in accordance with the requirements of the Site Plan Regulations, with a buffer of plant materials that effectively screens the view of the tower compound from adjacent residential property. The standard buffer shall consist of a landscaped strip at least ten (10) feet wide outside the perimeter of the compound. Natural vegetation is preferred.

**11.5.5.3.2** In locations where the visual impact of the tower would be minimal, the landscaping requirement may be reduced or waived entirely.

**11.5.5.3.3** Existing mature tree growth and natural landforms on the site shall be preserved to the maximum extent possible. In some cases, such as towers sited on large wooded lots, natural growth around the property may be deemed a sufficient buffer.

### **11.6 Bonding, Security and Insurance**

Recognizing the extremely hazardous situation presented by abandoned and unmonitored towers, the Planning Board shall set the form and amount of security that represents the cost for removal and disposal of abandoned towers in the event that the tower is abandoned and the tower owner

fails to remove the tower in accordance with Section 11.7, Removal of Abandoned Antennas and Towers, all security shall be maintained for the life of the tower. Bonding and surety shall be consistent with the provisions in the Subdivision Regulations. Furthermore, the Planning Board shall require the submission of proof of adequate insurance covering accident or damage.

### **11.7 Removal of Abandoned Antennas and Towers**

Any antenna or tower that is not operated for a continuous period of twelve (12) months shall be considered abandoned and hazardous to the public health and safety, unless the owner of the tower provides proof of quarterly inspections. The owner shall remove the abandoned structure within ninety (90) days of receipt of a declaration of abandonment from the Town notifying the owner of such abandonment. A declaration of abandonment shall only be issued following a public hearing, noticed per Town regulations, with notice to abutters and the last known owner or operator of the tower. If the abandoned tower is not removed within ninety (90) days the Town may execute the security and have the tower removed. If there are two or more users of a single tower, this provision shall not become effective until all users cease using the tower.

### **11.8 Telecommunications Facilities Definitions**

The following definitions relate to the Telecommunication Facility Ordinance, which is established pursuant to Section 11, and these definitions are for words and terms used exclusively in conjunction with the regulations for Telecommunications Facilities:

**11.8.1 Alternative Tower Structure** - Innovative siting techniques that shall mean man-made trees, clock towers, bell steeples, light poles, and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers.

**11.8.2 Antenna** - Any exterior apparatus designed for telephonic, radio, television, personal communications service (PCS), pager network, or any other communications through the sending and/or receiving of electromagnetic waves of any bandwidth.

**11.8.3 FAA** - An acronym for the Federal Aviation Administration.

**11.8.4 FCC** - An acronym for the Federal Communications Commission.

**11.8.5 Height** - When referring to a tower or other structure, the distance measured from ground level to the highest point on the tower or other structure, even if said highest point is an antenna.

**11.8.6 Pre-existing Towers and Antennas** - Any tower or antenna lawfully constructed or permitted prior to the adoption of this Ordinance or any tower or antenna lawfully constructed in accordance with this Ordinance.

**11.8.7 Telecommunications Facilities** - Any structure, antenna, tower, or other device

which provides commercial mobile wireless services, unlicensed wireless services, licensed wireless services such as broadcast television and radio, cellular phone services, specialized mobile radio communications (SMR), and personal communications service (PCS), and common carrier wireless exchange access services.

**11.8.8** Tower - Any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guy towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and the like.

## **Section 12 EXCAVATION OF EARTH MATERIALS**

### **12.1 General Provisions**

It is the intent of this Section to regulate the removal of earth within the Town of Goffstown in accordance with the provisions of RSA 155-E, Local Regulation Excavations.

### **12.2 Permit Requirements**

Pursuant to RSA 155-E, the Planning Board is designated as the "regulator" and is authorized to administer and grant conditional use permits for the excavation of earth materials. All excavations require the issuance of a conditional use permit from the Planning Board except those excavations that are specifically exempted from permit requirements pursuant to RSA 155-E:2, Permit Required.

### **12.3 Permit Not Required for Certain Excavations**

No permit shall be required for the following types of excavation:

**12.3.1** Excavation that is exclusively incidental to the construction or alteration of a building or structure or the construction or alteration of a parking lot or way including a driveway on a portion of the premises where removal occurs, provided that no such excavation shall be commenced unless all local and state approvals required for the construction or alteration of the building, structure, parking lot, or driveway have been issued;

**12.3.2** Excavation that is incidental to agricultural or sivilcultural activities, normal landscaping, or minor topographical adjustment;

**12.3.3** Earth that is in surplus in connection with the construction of a building for which a building permit has been issued. The amount to be removed shall be limited to the volume of the foundation and basement of the building; and

**12.3.4** The continuation of excavations at those sites established on or before August 24, 1979, provided that at the time such an excavation was first begun, it was in compliance with local ordinances and regulations, if any, as were then in effect, and that such excavation sites may not be expanded without receipt of a permit pursuant to this Section.

### **12.4 Application Requirements**

No permit for removal of earth shall be issued until a formal application has been filed with the Planning Board containing the following information, plans, and supporting materials:

**12.4.1** A plan showing the metes and bounds of the location of the proposed excavation, the number of acres involved in the project, the municipalities and counties in which the project is located, the proposed access to the site, and an adequate buffer from any abutting roadway and lots;

**12.4.2** The legal names and addresses of the owner of the property where the excavation is to be located, the person who will actually do the excavating, and the owners of all property located within six hundred (600) feet of the premises on which the excavation is proposed;

**12.4.3** A topographic map of the land involved, prepared by a licensed land surveyor or licensed professional engineer, showing by properly differentiated lines the contours at two (2) foot intervals of the existing land within one hundred (100) feet and of the proposed finished topography after the excavation is completed;

**12.4.4** A Site Specific soil survey, prepared in accordance with the requirements of the Subdivision and Site plan regulations;

**12.4.5** A bond, for up to one hundred (100) percent of the reclamation cost.

**12.4.6** The size, depth and slope of the proposed excavation, and the estimated duration of the project;

**12.4.7** A plan for reclamation of the excavation site; and

**12.4.8** Such other information as the Planning Board may reasonably require.

## **12.5 Existing Excavations**

Earth Removal Activities that were operating on the effective date of this Section may continue unless and until abandoned for six (6) consecutive months. However, unless specifically authorized by a new permit issued under the requirements:

**12.5.1** The depth of excavation shall not be increased below the lowest point of excavation on the effective date;

**12.5.2** The total area of excavation on any parcel of land shall not be increased by more than fifty (50) percent over the area on the effective date;

**12.5.3** The amount of material removed per day shall not be increased by more than fifty (50) percent of the daily average amount for the twelve (12) consecutive months preceding the effective date;

**12.5.4** Operators shall register their existing earth removal activities with the Town of Goffstown within nine (9) months of the effective date. The owner or operator shall receive a non-conforming permit, and shall provide the Planning Board with:

**12.5.5** The legal names and addresses of the owner of the property; the operator; and owners of all property located within six hundred (600) feet;

**12.5.6** A topographic map of the land involved, prepared by a licensed land surveyor or licensed professional engineer, showing by properly differentiated lines contours at two (2) foot intervals of existing land within one hundred (100) feet and of the proposed finished topography after the excavation is completed;

**12.5.6.1** A Site Specific soil survey shall be prepared in accordance with the Subdivision and Site Plan regulations; and

**12.5.6.2** Bonding shall be required for up to one hundred (100) percent of the reclamation cost.

## **12.6 Operational Standards**

All excavations, whether or not subject to the permit requirements of this Section, shall comply with the following operational standards:

**12.6.1** No excavation shall be permitted below road level within fifty (50) feet of the right of way of any public highway as defined in RSA 229:1, unless such excavation is used for the purposes of the highway;

**12.6.2** No excavation shall be permitted within fifty (50) feet of the boundary of a disapproving abutter, or within one hundred fifty (150) feet of any dwelling which either existed or for which a building permit has been issued at the time the excavation is commenced, and existing vegetation shall be maintained or provided within these setback areas;

**12.6.3** Drainage shall be maintained so as to prevent the accumulation of freestanding water for prolonged periods. Excavation practices, which result in siltation of streams or degradation of any water supplies, are prohibited. Where excavation projects which require a permit from the N H Department of Environmental Services - Water Division pursuant to RSA 485-A: 17, the provision of the statute, and rules adopted pursuant to it shall supersede this paragraph. The excavator shall file a copy of the permit issued under RSA 485-A:17, with the Planning Board and Town Clerk;

**12.6.3.1** No fuels, lubricants, or other toxic or polluting materials shall be stored on site unless in compliance with state laws or rules pertaining to such materials;

**12.6.3.2** Where temporary slopes will exceed a grade of one to one (1:1), a fence or other suitable barricade shall be erected to warn of danger or limit access to the site;

**12.6.3.3** Prior to the removal of topsoil or other material from a new excavation area, the excavator shall file a reclamation bond with the Planning Board through the Board of Selectmen, or other security as prescribed by the Planning Board, sufficient to secure the reclamation of the site;

**12.6.3.4** Nothing in this ordinance shall be deemed to supersede or preempt applicable environmental standards or permit requirements contained in this Ordinance or other state laws, and no exemption under this ordinance shall be construed as an exemption from any other state statute or local ordinance; and

**12.6.3.5** The Planning Board may determine the hours of operation.

## **12.7 Prohibited Projects**

The Planning Board shall not grant a permit:

**12.7.1** Where the excavation would violate the operational standards of this Section;

**12.7.2** When the issuance of the permit would be unduly hazardous or injurious to the public welfare;

**12.7.3** Where the excavation would substantially damage a known aquifer, so designated by the US Geological Survey; or

**12.7.4** When the excavation is planned beneath or adjacent to inland surface waters in such a manner that a permit is required from the NH Department of Environmental Services or federal agencies with jurisdiction over the premises; however, the Planning Board may approve such an application when all necessary permits have been obtained.

## **Section 13 OVERLAY DISTRICT DESCRIPTION**

### **13.1 Generally**

Certain lands within the Town of Goffstown are included in the following Overlay Districts for the purposes so stated in this Section, and as shown on the Zoning Overlay District Maps, and established pursuant to Section 2.1, Zoning Districts Established. The Overlay Districts are superimposed upon the Base Districts, and the provisions of each Overlay District shall be in addition to the provisions of the Base Districts. Land subject to the restrictions of a Base District and one or more Overlay Districts shall be used only if and to the extent that a proposed use is permitted both in the Base District and the applicable Overlay Districts. Wherever the regulations differ between the Base and Overlay Districts, the regulations that impose the more restrictive provisions or the higher standards shall control.

### **13.2 Flood Hazard (FH) District**

Purpose of the FH District - The FH District is established for the following purposes:

**13.2.1.1** To reduce the hazards of floods in the interest of the public health, safety, and welfare;

**13.2.1.2** To protect floodplain occupants from a flood that is or may be caused by their own land use;

**13.2.1.3** To protect the public from the burden of extraordinary financial expenditures for flood control and relief; and

**13.2.1.4** To protect the capacity of floodplain areas to absorb, transmit, and store runoff.

**13.2.2** Authority for the FH District - The FH District is established in accordance with the provisions of RSA 674:41, Innovative Land Use Controls, and the National Flood Insurance Act of 1968. The FH District is considered to be an innovative land use control as environmental characteristics zoning.

**13.2.3** Limits of the FH District - The FH District, as displayed on the Zoning Map pursuant to Section 2.55, The Zoning Overlay District Maps, shall include the following areas within the Town:

**13.2.3.1** One Hundred (100) Year Floodplains - Within the FH District, an area which will be subject to a flood that has a one (1) percent chance of being equaled or exceeded in any given year. The one hundred (100) year floodplain includes Zones A, A1-30, AE, AH, and AO as shown on the Flood Insurance Rate Map (FIRM) adopted pursuant to Section 13:02.



**13.2.3.2 Floodway** - An area within the one hundred (100) year floodplain that includes the channel of the watercourse and adjacent land that must be reserved in order to discharge flood waters without increasing the water surface elevation.

**13.2.4 Development Restrictions in the Floodway** - No encroachments, including fill, new construction, substantial improvements, and other development are allowed within the floodway that would result in any increase in flood levels within the community during the base flood discharge. In Zone A as shown on the FIRM, the Building Code Enforcement Officer shall obtain, review, and reasonably utilize any floodway data available from a Federal, State, or other source as criteria for requiring that development meet the floodway requirements of this section.

**13.2.5 Development Restrictions in the One Hundred (100) Year Floodplain** - Buildings or structures may be constructed or improved within the one hundred (100) year floodplain subject to the following standards:

**13.2.5.1** The lowest floor, including any basement, of residential buildings or structures shall be established at an elevation that is equal to or greater than the required elevation, as determined pursuant to Section 13.2, Determination of Required Elevations.

**13.2.5.2** Non-residential building or structures, shall comply with either the elevation standards for residential buildings and structures in accordance with this Section, or be flood-proofed so that below the required elevation, as determined pursuant to Section 13:02, Determination of Required Elevations, the structure is watertight, with walls substantially impermeable to the passage of water, and has structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.

**13.2.6** All manufactured homes to be placed or substantially improved within the one hundred (100) year floodplain shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above the base flood level, and be securely anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces

**13.2.7** Recreational vehicles placed on sites within the FH District shall be on the site for fewer than 180 consecutive days, or be fully licensed and ready for highway use, or meet all standards of Section 60.3 (b) (1) of the National Flood Insurance Program regulations and the elevation and anchoring requirements for "manufactured homes"

**13.2.8 Development Involving Alteration or Relocation of Watercourses**

**13.2.8.1** In riverine situations, prior to the alteration or relocation of a watercourse, the applicant for such authorization shall notify the Wetlands Bureau of the New Hampshire Department of Environmental Services and submit copies of such notification to the

Building Code Enforcement Officer in addition to the copies required by RSA 482-A:3. The applicant shall submit to the Code Enforcement Officer, certification provided by a licensed professional engineer, assuring that the flood carrying capacity of an altered or relocated watercourse can and will be maintained.

**13.2.8.2** Along watercourses that have not had a floodway designated, no new construction, substantial improvements or other development (including fill) shall be permitted within Zones A1-30 on the FIRM, unless it is demonstrated by the applicant that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the Town of Goffstown.

**13.2.9** Development Standards in the FH District - All new construction and substantial improvements, together with attendant utility and sanitary facilities, shall be:

**13.2.9.1** Designed and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;

**13.2.9.2** Constructed by methods and practices that minimize flood damages, and with materials resistant to flood damage;

**13.2.9.3** Constructed with electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities at an elevation that is equal to or greater than the required elevation, as determined pursuant to Section 13.2, Determination of Required Elevations, and which are designed and located so as to prevent water from entering or accumulating within the equipment and facilities during conditions of flooding;

**13.2.9.4** Constructed such that fully enclosed areas below the lowest floor that are subject to flooding meet the following requirements:

**13.2.9.5** The enclosed area is unfinished or flood resistant, usable solely for parking of vehicles, building access or storage;

**13.2.9.6** The area is not a basement; and

**13.2.9.7** The area shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria: A minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one (1) foot above grade. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit floodwaters; and

**13.2.9.8** Constructed to include adequate drainage paths to guide floodwaters around and away from the proposed structures where the structures are to be located on slopes.

**13.2.10** General Application Requirements within the FH District - All proposed development in the FH District shall require a permit from the code enforcement officer. The Building Code Enforcement Officer shall review all applications for permits and approval of new construction or substantial improvements to determine whether proposed building site is in the FH District and if so, to assure that proposed buildings, structures, and improvements will be reasonably safe from flooding and in accordance with the requirements of this Section. Within the FH District, the following plans, data, information, and certification shall be provided by an applicant to the Code Enforcement Officer:

**13.2.10.1** The proposed elevation in relation to the National Geodetic Vertical Datum (NGVD) of the lowest floor, including any basement;

**13.2.10.2** If the structure is proposed to be flood-proofed, the elevation in relation to NGVD to which the structure is to be flood-proofed;

**13.2.10.3** Upon completion of flood-proofing, the certification of a licensed professional engineer or architect that the design and methods construction or installation of flood-proofing were completed in accordance with accepted standards of practice for the same;

**13.2.10.4** Where new or replacement on-site subsurface disposal systems are proposed in the FH District, the certification of a licensed professional engineer, assuring that new or replacement systems will be designed to minimize or eliminate infiltration of flood waters into the systems, and to minimize or eliminate discharges from the systems into flood waters, and that the systems will be located to avoid impairment to them or contamination from them during periods of flooding; and

**13.2.10.5** Copies of all necessary permits from those governmental agencies from which approval is required by Federal or State law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.

**13.2.11** Determination of Required Elevation - The Building Code Enforcement Officer shall determine the required elevation for development in the one hundred (100) year floodplain within the FH District, in the following order of precedence according to the data available:

**13.2.11.1** In zones A1-30, AH, and AE, by reference to the elevation provided in the Flood Insurance Study and the accompanying FIRM or FHBM;

**13.2.11.2** In unnumbered A Zones, by obtaining, reviewing, and reasonably utilizing any

one hundred (100) year flood elevation data available from Federal, State, or other sources including data submitted pursuant to development applications to the Town of Goffstown; or

**13.2.11.3** In Zone AO, by adding the elevation of the highest adjacent grade to the depth number specified on the FIRM or, if no depth number is specified on the FIRM, a depth of at least two (2) feet.

**13.2.12** Appeals to the Zoning Board of Adjustment (ZBA) in the FH District

**13.2.12.1** Any appeal of a determination or decision made pursuant to this Section shall be made in accordance with Section 15.3, Decisions by the Zoning Board of Adjustment (ZBA).

**13.2.12.2** Each applicant for an appeal to the ZBA is hereby notified that:,

**13.2.13** The issuance of a variance to construct below the base flood level, if granted, shall result in increase premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage; and

**13.2.14** Such construction below the base flood level increases risks to life and property. A record of all variance actions in the FH District shall be included in the Town's regular reports to the Federal Insurance Administrator at the Federal Emergency Management Agency (FEMA).

**13.2.15** Definitions: following definitions relate to the Flood Hazard (FH) District, which is an overlay district established pursuant to Section 13.2. These definitions are for words and terms used exclusively in conjunction with this District

**13.2.15.1** Area of Shallow Flooding - A designated AO or AH zone on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

**13.2.15.2** Area of Special Flood Hazard - land in the flood plain within a community subject to one percent or greater chance of flooding in any given year. An area having flood, mudslide (i.e. mudflow) and/or flood-related erosion hazards, which is designated on the FIRM as zones A, AO, AH, A1-30, AE, A99, V, or E.

**13.2.15.3** Base Flood or 100-year Flood - A flood having a one percent chance of being equaled or exceeded in any given year.

**13.2.15.4** Breakaway Wall - A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific

lateral forces without causing damage to the elevated portion of the building or supporting foundation.

**13.2.15.5 FEMA** - The Federal Emergency Management Agency.

**13.2.15.6 Flood or Flooding** - A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters, or from the unusual and rapid accumulation of runoff or storm water from any source.

**13.2.15.7 Flood Boundary and Floodway Map** - Referred to as the “Floodway Map”, it is an official map of the community, on which the Federal Emergency Management Agency has delineated the “Regulatory Floodway”.

**13.2.15.8 Flood Elevation Study or Flood Insurance Study** - An examination evaluation and determination of flood hazards, and if appropriate, corresponding water surface elevations, or an examination evaluation and determination of mudslide (i.e. mudflow) and/or flood-related erosion hazards.

**13.2.15.9 Flood Insurance Rate Map** - Referred to as the FIRM, it is an official map on which the Federal Emergency Management Agency has delineated both the special Hazard areas and the risk premium zones applicable to the community.

**13.2.15.10 Flood plain or Flood-prone Area** - Any land area susceptible to being inundated by water from any source (see definition of “flooding”).

**13.2.15.11 Flood proofing** - Any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

**13.2.15.12 Floodway** - The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without increasing the water surface elevation. These areas are designated as floodways on the Flood Boundary and Floodway maps.; “Riverine” means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

**13.2.15.13 Functionally dependent use** - A use, which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long term storage or related manufacturing facilities.

**13.2.15.14 Mean sea level** - The National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on the Flood Insurance Rate Map are referenced.

**13.2.15.15 Structure** - For floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home.

**13.2.15.16 Water Surface Elevation** - The height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, (or other datum, where specified) of floods of various magnitudes and frequencies in the flood plains.

### **13.3 Wetland Conservation (WC) District**

**13.3.1 Purpose of the WC District** - The purpose of the WC District is to protect and regulate the use of wetlands in the Town of Goffstown in the interest of the public health, and welfare. The WC District is intended to:

**13.3.1.1** Control the development of structures and land uses within the WC District that would contribute to the pollution of surface waters and groundwater;

**13.3.1.2** Prevent the destruction of wetlands which provide flood protection, groundwater recharge, pollution abatement, and the augmentation of stream flow during dry periods, and which are important for such other reasons as cited in RSA 482-A:1, Finding of Public Purpose;

**13.3.1.3** Prevent unnecessary or excessive expenses to the Town to provide and maintain essential services and utilities which arise because of unwise use of water resources;

**13.3.1.4** Encourage those uses that can be appropriately and safely located in the WC District;

**13.3.1.5** Protect potential water supplies and existing aquifers (water bearing stratum) and aquifer recharge areas;

**13.3.1.6** Preserve and enhance those aesthetic values associated with the water resources of the Town;

**13.3.1.7** Protect wildlife habitats and maintain ecological balances; and

**13.3.1.8** Protect unique and unusual natural areas.

**13.3.2 Authority for the WC District** - The WC District is established in accordance with the provisions of RSA 674:21, Innovative Land Use Controls. The WC District is considered to be an innovative land use control as environmental characteristics zoning. Within the WC District, the Planning Board is authorized to administer and grant conditional use permits in accordance with Section 15.4.1, Conditional Use Permits.

**13.3.3** Limits of the WC District - The precise location of the WC district boundary shall be determined by an on-site inspection of soil types, vegetation and hydrology by a certified soil scientist in accordance with the requirements of the Goffstown Subdivision and Site plan Regulations.

**13.3.3.1** The WC District includes those contiguous wetlands, any part of which lie within the Town of Goffstown, that are two thousand (2,000) square feet or larger, and those wetlands that are of any size if contiguous to surface waters, as well as any land within fifty (50) feet of those wetlands, of any lots that were created on or after March 9, 1993.

**13.3.3.2** The WC District also includes those contiguous wetlands, any part of which are twenty thousand (20,000) square feet or larger, as well as any land within one hundred (100) feet of those wetlands, of any lots that were created on or after March 11, 2003. The provisions of this section do not apply to lots that are in the C, I, RSBO or VC zoning districts. Relief from this section may be granted by the Planning Board, following recommendation of the Conservation Commission relative to its impact on the functions and values of the wetland system, and upon a finding that the wetland's functions and values have not been compromised.

**13.3.4** Uses Permitted in the WC District - The following uses and structures shall be permitted in the WC District, provided that the use and structure does not cause significant increases in the contamination of surface or ground water:

**13.3.4.1** Any use otherwise permitted by this Ordinance provided that such use does not involve the erection of a structure and will not alter the surface configuration of the land;

**13.3.4.2** Agriculture, including grazing, hay production, truck gardening and silage production;

**13.3.4.3** Forestry, logging and tree farming;

**13.3.4.4** Wildlife habitat development and management;

**13.3.4.5** Conservation areas and nature trails;

**13.3.4.6** Water impoundment and wells;

**13.3.4.7** Fences, footbridges, catwalks and wharves, provided that they permit unobstructed flow of water, and they do not change the natural contour of the wetland;

**13.3.4.8** Roads or driveways for crossing wetlands provided that there is no other alternative location for the same, and the roads and driveways are designed to have the

least impact on the wetland; and

**13.3.4.9** Wetland protection measures in accordance with Section 13.3.6, WC District Protection Measures.

**13.3.5** Uses Permitted by Conditional Use Permit in the WC District

**13.3.5.1** The Planning Board may grant conditional use permits to allow the construction of pipelines, power lines, and other transmission lines in the WC District, provided that the proposed construction is essential to the productive use of land not within the WC District, and that the design, construction and maintenance methods will minimize any detrimental impact upon the wetland and will include restoration of the site as nearly as possible to its original grade and condition.

**13.3.5.2** Prior to the granting of a conditional use permit, the applicant shall submit a bond or a performance security to ensure that all construction is carried out in accordance with the approved design in accordance with the Goffstown Subdivision and Site Plan Regulation.

**13.3.5.3** The Planning Board may require the applicant to submit an environmental impact assessment, the cost of which shall be borne by the applicant. The Planning Board may also assess the applicant reasonable fees to cover the costs of any other investigations that the Board deems necessary in order to evaluate the application, including costs associated with the review of documents required by the application.

**13.3.6** WC District Protection Measures - Protective measures shall be taken to ensure that any construction activities occurring within the WC District will not cause siltation into, or degradation of wetlands. Prior to any alteration of terrain within the WC District, the following shall be installed and shall be properly maintained until construction is completed and the site is stabilized:

**13.3.6.1** Orange construction fencing along the edge of the WC District; and

**13.3.6.2** Silt fencing, and other erosion control measures in accordance with "Best Management Practices" (as defined in *Erosion & Sediment Control Design Handbook* prepared by the USDA Soil Conservation Service, Durham, New Hampshire), and as approved by the Planning Board.

**13.3.7** Exemptions from the WC District Regulations - Structures and uses lawfully existing in the WC District at the time of the adoption of this Ordinance may be expanded or extended provided the expansion or extension does not encroach further upon the wetlands.

**13.38** Wetland Conservation District Definitions



**13.3.8.1 Certified Soil Scientist** - A person certified by the N.H. Joint Board of Licensure as a Soil Scientist capable of delineating wetlands.

**13.3.8.2 Federal Manual** - The Edition of the Federal Manual for Identifying and Delineating Jurisdictional Wetlands used by the N.H. Department of Environmental Services Wetlands Bureau or any successor board or agency, prepared by the Federal Interagency Committee for Wetland Delineation.

**13.3.8.3 Hydric Soils** - Soils that are saturated, flooded or ponded long enough during the growing season to develop anaerobic conditions in the upper part.

**13.3.8.4 Hydrophytic Vegetation** - Macrophytic plant life growing in water, in soil, or on a substrate that is at least periodically deficient in oxygen as a result of excess water content, as further defined in the Federal Manual.

**13.3.8.5 National List of Plant Species** - The most recent edition of the “National List of Plant Species that Occur in Wetlands: New Hampshire,” prepared by the National and Regional Interagency Review Panels detailing the indicator status of all plants reviewed by the panels.

**13.3.8.6 Wetlands** - Those areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal conditions do support, a prevalence of vegetation adapted for life in saturated soil conditions. Wetlands have hydric soils, hydrophytic vegetation, and wetland hydrology, and generally include, but are not limited to, swamps, marshes, bogs, and similar areas.

**13.3.8.7 Wetland Hydrology** - Permanent or periodic inundation, or soil saturation to within six (6) inches of the soil surface for at least seven (7) consecutive days during the growing season, as further defined in the Federal Manual.

**13.3.8.8 Wetland Scientist** - A person certified by the N.H. Joint Board of Licensure as a Wetland Scientist capable of delineating wetlands.

## **13.4 Historic (HI) District**

**13.4.1 Purpose of the HI District** - The HI District is established for the purpose of preserving and safeguarding the heritage of the Town of Goffstown by:

**13.4.1.1** Providing for the protection of buildings, structures, sites, and areas that represent significant elements of the Towns cultural, social, political, and architectural history;

**13.4.1.2** Enhancing the visual character of the Town by encouraging new construction to

respect established architectural traditions;

**13.4.1.3** Fostering public appreciation and civic pride in the Town's historical resources;

**13.4.1.4** Strengthening the Town's economy through protection and enhancement of the attractiveness of the community to residents, tourists, and visitors;

**13.4.1.5** Conserving property values within the Town of Goffstown; and

**13.4.1.6** Promoting the use of the HI District for the education, pleasure, and welfare of the citizens of Goffstown.

**13.4.2** Authority for the HI District - The HI District is established in accordance with the provisions of RSA 674:46, Authority Granted.

**13.4.3** Limits of the HI District - The HI District includes the Grasmere District, the Parker Station District, and the Carr Court District. The Grasmere District, located on Center Street, includes the Hillside Cemetery and the Grasmere Grange Hall, identified as Lots 26 and 28 on Map 28, and Lot 11 on Map 27. The Parker Station District includes seven (7) properties identified as Lots 40, 41, 61-1, 61-6, 62, 63 and 64, all on Map 7. The Carr Court District includes two (2) properties on Carr Court, off of Main Street, identified as Lots 32 and 33 on Map 34.

**13.4.4** Certificate of Appropriateness Required - Within the HI District, no construction, demolition, or other activity shall be permitted or otherwise be allowed to occur which will affect the appearance of a building, structure, or improvement, unless a Certificate of Appropriateness shall have been issued therefore by the Historic District Commission in accordance with the procedures specified in Section 15.15, Decisions by the Historic District Commission. Activities which require a Certificate of Appropriateness include the erection, construction, alteration, moving, or razing of a building or structure, or erection, alteration or removal of any exterior, visual feature of a building or structure.

**13.4.5** Activities Exempt from a Certificate of Appropriateness - The following activities are exempt from the requirements for the issuance of a Certificate of Appropriateness by the Historic District Commission:

**13.4.5.1** Ordinary maintenance and repair of any architectural feature which does not involve a change in design, materials, appearance, or removal thereof;

**13.4.5.2** Painting or repainting a building or structure;

**13.4.5.3** Landscaping;

**13.4.5.4** Roofing or re-roofing of a building or structure provided that the roof plane remains the same and replacement roofing has the same or similar visual characteristics

as the existing roofing;

**13.4.5.5** Storm doors and storm windows; and

**13.4.5.6** Changing or repairing siding, if the replacement siding has the same visual characteristics and dimensions as the existing siding.

## **13.5 Open Space Developments**

**13.5.1** Authority - This Section is adopted pursuant to the provisions of RSA 674:21, Innovative Land Use Controls. The Planning Board shall administer the application, review, and approval process for Open Space Developments through the subdivision of land process, including lot line adjustments.

**13.5.2** Purpose and Objectives - The purpose of this Section of the Zoning Ordinance is to allow and encourage alternative subdivision designs that preserve Goffstown's rural character and environmentally sensitive elements, while providing housing that is more desirable in its design for the town and for the general public. Open Space Developments shall promote the following objectives:

- (a) Maintain the rural character of the town through the preservation of natural resources and open space;
- (b) Preserve agriculture and farming within the community where possible, achieving a balance between farming, open space and residential growth;
- (c) Encourage the use of land in accordance with its character and adaptability, including view sheds, assuring the permanent preservation of open space, agricultural lands, and other natural resources; allowing innovation and greater flexibility in the design of residential developments while facilitating the coordination of design and use between adjacent properties;
- (d) Encourage a less sprawling form of development, thus preserving Open Space as undeveloped land or for dedicated recreational use;
- (e) Provide adequate setbacks and buffers to minimize any adverse affect of the use of a property on neighboring properties; and
- (f) Promote a natural system of storm water management to minimize erosion and to encourage aquifer recharge.

**13.5.3** Location - An open space development may be approved only on land located within the R-1, R-2, Agricultural or Conservation zoning districts and having a Parent Lot of 10 acres or larger.

**13.5.3.1** Mandatory Use of the Open Space Development - Any subdivision or other division of land, including lot line adjustments that may create additional developable lots, must use an Open Space Design in the Agricultural and Conservation districts if the Parent Lot size is twenty (20) acres or larger, unless

- (a) The completed subdivision of the Parent Lot will have a total of no more than

- five (5) lots; or
- (b) All lots in the completed subdivision of the Parent Lot will have a minimum of ten (10) acres in size.

**13.5.3.2 Optional Open Space Designs** - Open Space designs are optional in the R-1 and R-2 Districts, and in Agricultural and Conservation Districts where the Parent Lot is less than 20 acres in size.

**13.5.4 Subdivision Approval Required** - An Open Space Development shall require Planning Board approval. The application for approval shall comply with the Planning Board's subdivision regulations and the following requirements:

**13.5.4.1 Site Analysis** - The applicant shall submit a site analysis plan showing the physical features and character of the site and the surrounding area.

**13.5.4.2 Density Determination** - The applicant shall submit a yield plan showing that the net density will be no greater than permitted within that zoning district for a conventional subdivision or development, unless waived by the Planning Board upon a finding that the proposed number of dwelling units is well within the density requirement.

**13.5.5 Flexibility.** As an exception to Section 13.1, and to encourage flexibility and creativity consistent with the Open Space Development concept, the Planning Board may waive the requirements of the Zoning Ordinance for frontage, yard, lot size, and density standards, upon a finding that the granting of the waiver will promote the objectives of the Open Space Development and will not adversely affect other properties or the public.

**13.5.6 Open Space Requirements.** The total area of dedicated open space shall equal a percentage of the total site, as follows:

| <u>Base Density<br/>(Dwelling Units /Acre)</u> | <u>Open Space Required<br/>(% of Buildable Area)</u> |
|--|--|
| 1 or greater                                   | 40%  |
| Between 0.5 and 1                              | 45%  |
| 0.5 or less                                    | 50%  |

**13.5.7 Permanent Restriction of Open Space.** Open space land shall not be further subdivided or used other than for recreation, conservation or agricultural purposes, except for easements for utilities, except as approved by the Planning Board.

**13.5.8 Definitions.**

- (a) **Base Density** - The original maximum density permitted under the property's residential zoning district (dwelling units per acre).
- (b) **Buildable Area** - All of the area of a parcel, except (a) the area of any street right-of-way proposed to be dedicated to the public; (b) any submerged land

area; (c) any portion of the project used for cisterns (may be waived); (d) slopes in excess of 25%; (e) streams, wetlands and Wetland Conservation District areas; and (f) utility rights-of way.

- (c) Open Space - A portion of a development site that is permanently set aside for public or private uses and shall never be developed.
- (d) Open Space Development - A development pattern that arranges the layout of buildings in a compact area of the site so as to preserve and protect, in perpetuity, a portion of the site for recreational or natural open space as an integral part of the overall plan.
- (e) Parent Lot- Any lot, as it existed on March 11, 2003, the date this ordinance went into effect.
- (f) Yield Plan - A plan submitted by the applicant showing a feasible conventional subdivision under the requirements of the specific zoning district in which the property is located and the requirements of any and all State and local subdivision regulations.

## **Section 14 NON-CONFORMING LOTS, USES AND STRUCTURES**

### **14.1 Purpose and Applicability**

The purpose of this Section is to encourage the discontinuance of non-conforming uses, structures and lots and to provide for the transition of non-conforming uses, structures and lots to conforming or more conforming uses, structures and lots.

### **14.2 Types of Non-conformity**

The intent of this Section is to regulate changes in lawfully existing uses, structures and lots that do not conform to the present regulations. A single property may exhibit one or more types of non-conformity. It is the intent that each type of non-conformity is treated distinctly where more than one aspect of non-conformity occurs on a given property. This Section establishes provisions for three classes of non-conformities relating to:

**14.2.1** Lots - the size, frontage, or other dimensions associated with a lot;

**14.2.2** Uses - principal and accessory uses of a lot or within the buildings thereon; and

**14.2.3** Structures - the location and extent of buildings and structures on a lot, with respect to the required yards, density limitations, lot coverage, or other dimensional standards.

### **14.3 Public Acquisition and Nonconforming Status**

Where a structure or the lot on which it is located fail to meet the dimensional standards as a consequence of government acquisition of a portion of the property, such structure or lot shall be regarded as non-conforming, and shall be used, modified, and maintained in accordance with provisions of this Section.

### **14.4 Signs**

This Section shall not apply to signs. Provisions for non-conforming signs are contained in Section 7.7, Status of Non-conforming Signs.

### **14.5 Grandfather Clause**

Any legal and conforming use, structure or lot that became non-conforming as a result of adoption of this Ordinance or any subsequent amendment hereto shall be deemed non-conforming, but may be continued in accordance with prior applicable law and ordinances. Any alteration or expansion of such non-conforming use, structure or lot shall nevertheless be subject to all of the provisions of this Ordinance and subsequent amendments hereto.

### **14.6 Determination of Non-conformity**

**14.6.1** Evidence of Non-conformity - In reviewing an application for a building permit, or other application for land use change or structural or lot alteration involving a non-conforming use, building or lot, the Zoning Code Enforcement Officer shall make a

determination as to the existence of a non-conformity. In so doing, the Zoning Code Enforcement Officer may require the property owner, or his agent, to produce acceptable evidence attesting to said legal non-conforming status. Such evidence shall include, but is not restricted to, such documents as rent receipts, affidavits, documentation of utility services, or other information as may be deemed to be necessary in a particular case.

**14.6.2 Non-conforming Use Status Limited to Permanent Lawful Uses** - The temporary or illegal use of land or structures, or land and structures in combination, shall not be sufficient to establish the existence of a non-conforming use or to create rights in the continuance of such use.

**14.6.3 Status of Uses Authorized by Special Exception or Conditional Use Permit** - Any use in lawful existence at the time of passage or amendment, which would thereafter require a Special Exception or Conditional Use Permit under its terms, shall without further action be deemed a conforming use. Any enlargement or replacement of such use, in buildings, or on land, shall require a Special Exception or Conditional Use Permit as indicated in Section 3.8, Table of Principal Uses, as though it were a new use.

**14.6.4 Status of Uses or Dimensions Established by Variance** - Where the use or dimensions of a lot or structure, not otherwise allowed under the provisions of this Ordinance, have been or are established by the granting of a variance by the Zoning Board of Adjustment pursuant to Section 15.3, Decisions by the Board of Adjustment (ZBA), said use or dimensions of a lot or structure shall not be considered to be non-conformities under the provisions of this Section. Any modification of a use or dimensions established by variance shall require a new application for a variance to be submitted to the ZBA for consideration.

## **14.7 Non-conforming Lots**

**14.7.1 Evidence of Non-conforming Lot** - A non-conforming lot shall be deemed to exist where the Zoning Code Enforcement Officer determines, based on information submitted by the property owner or by the public record, that all of the following conditions are true:

**14.7.1.1** The lot was created prior to the original adoption of this Ordinance on March 14, 1961, or prior to the effective date of relevant amendments affecting the conformity of the lot, and no further division has occurred since that date;

**14.7.1.2** The lot met the minimum size, frontage and area standards which were in effect when the lot was created; and

**14.7.1.3** The lot does not conform with present size, frontage, or other dimensional standards of the zoning district, and the present owner does not own, and has no contract, option or other enforceable legal right to acquire any adjoining property to the extent necessary to make the lot conforming with present standards, or is prevented by law from

doing so.

**14.7.2** Date Lot was Created - The date of creation of a lot shall be considered established by its most recent legal and conforming change in configuration by parcel area reduction, consolidation, land division, or other official action if such was required.

**14.7.3** Use of a Non-conforming Lot - Except as may otherwise be allowed in accordance with Section 14.5, Grandfather Clause, of this Section, a non-conforming lot may, as a special exception, pursuant to Section 15.3.4, Special Exceptions, be developed for any use permitted within the district in which it is located, subject to the following conditions:

**14.7.3.1** The lot has frontage on an accepted street, or the Zoning Board of Adjustment (ZBA) has granted a permit, pursuant to Section 15.3.5, Construction of a Building on a Lot Without Frontage on a Street, for a building or structure to be constructed on a lot which has no frontage on an accepted street;

**14.7.3.2** Such lot, as of the original adoption of this Ordinance on March 14, 1961, or an applicable amendment thereto, was held under separate ownership from the adjoining lots or has been made non-conforming since that time through public acquisition;

**14.7.3.3** The proposed use of the non-conforming lot conforms to the front, side and rear yard requirements and to the maximum lot coverage requirements of Section 4.3, Table of Dimensional Regulations; and

**14.7.3.4** Where development is proposed on a non-conforming lot abutting another lot or lots in the same ownership, these lots shall be consolidated as necessary to eliminate non-conformity to the maximum extent possible, and proof of that consolidation shall be filed with any application for a permit for development of the lot. After that time, the consolidated lot, if still non-conforming, shall continue to have the same rights of use as other non-conforming lots as provided in this Section.

## **14.8 Non-conforming Uses of Land**

**14.8.1** Continuation of a Non-conforming Use - Where a non-conforming use, or where non-conforming characteristics of a use such as off- street parking and loading, lighting, landscaping, or similar features exist, such non-conforming uses or characteristics of a use may continue so long as it remains otherwise lawful, provided that:

**14.8.1.1** No such non-conforming use shall be enlarged or increased nor extended to occupy a greater area of land than was occupied at the effective date or amendment;

**14.8.1.2** No such non-conforming use shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such use at the effective date of adoption or amendment; and



**14.8.1.3** The use has not been destroyed, abandoned, or terminated subject to the criteria established by Section 14.11, Destruction, Abandonment and Termination, of this Section.

**14.8.2** Change from One Non-conforming Use to Another - A non-conforming use of a structure, or a structure and premises in combination, shall not be changed to another non-conforming use, but may be changed to a conforming use.

**14.8.3** Expansion of a Non-conforming Use

**14.8.3.1** No non-conforming use of a structure shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered so that its area of lot coverage is increased except in changing the use of the structure to a permitted use.

**14.8.3.2** Any non-conforming use may be extended only to those parts of a building, which were manifestly arranged or designed for such use at the time of adoption or amendment.

**14.8.3.2** Any structure, or structure and land in combination, in or on which a non-conforming use is replaced by a permitted use, shall thereafter conform to the regulations for the district, and the non-conforming use may not thereafter be resumed.

## **14.9 Non-conforming Structures**

**14.9.1** Repairs and Maintenance - On any non-conforming structure or portion of a structure containing a non-conforming use, ordinary repairs and maintenance on such structures may be conducted, provided that:

**14.9.1.1** Structural alterations of a non-conforming building or structure may be made only if the building is being altered to conform to the requirements of the district in which it is located, or to the extent authorized by the provisions of this Section; and

**14.9.1.2** Except where alterations are made to conform to the requirements of this Ordinance, structural alterations of a non-conforming building or structure, over the lifetime of said building or structure, shall not exceed a cost that is equal in value to fifty (50) percent of the value of the building or structure as determined by the Zoning Code Enforcement Officer; and

**14.9.1.3** Where the condition of a building constitutes abandonment or destruction under the criteria established by this Section, the building may not be restored or rebuilt except in conformity with the regulations of the district in which it is located.

**19.9.2** Continuation of Non-conforming Structures - Where a lawful structure exists at the effective date of adoption or amendment that could not be built under the terms of this Ordinance by reason of restrictions on lot area, lot coverage, height, required yards, its

location on the lot, or other requirements concerning the structure, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

**14.9.2.1** The structure shall not be enlarged or altered in a way that increases its non-conformity, but any structure or portion thereof may be altered to decrease its non-conformity;

**14.9.2.2** Should the structure be moved for any reason for any distance whatsoever, it shall thereafter conform to the regulations for the district in which it is located after it is moved; and

**14.9.2.3** Where non-conforming use status applies to a structure and premises in combination, the removal or destruction of the structure shall eliminate the non-conforming status of the use of the land. Where the destruction is a result of fire or other casualty, it may be repaired or replaced in accordance with the provisions of this Section.

**14.9.3** Replacement of Non-conforming Structures - Non-conforming structures that have been damaged or destroyed by fire or other casualty may be repaired or replaced provided that reconstruction or replacement of the structure shall be accomplished in a more conforming manner or, at minimum, within essentially the same dimensions of the footprint area occupied by the original structure, and that the reconstruction or replacement be initiated within one (1) year of the date on which the damage or destruction occurred. If the reconstruction or repair is not begun within the one (1) year period, then the structure shall not be reconstructed or repaired except in conformity with the requirements, and the non-conformity shall be terminated.

**14.9.4** Destruction, Abandonment and Termination - Except as provided in this Section, the abandonment or destruction of a non-conforming use under the criteria established herein shall result in the termination of the non-conforming status of that use or structure. The property shall thereafter conform to the regulations of the district and the non-conforming use may not be resumed.

**14.9.5** Destruction - A non-conforming structure shall not be reconstructed except in conformity with the provision of this Ordinance. The destruction of a non-conforming structure shall be deemed to have occurred where any of the following conditions are met:

**14.9.5.1** The destruction of the non-conforming structure was as a result of a cause other than fire or casualty; or

**14.9.5.2** The non-conforming structure has been found to be unsafe and unlawful by reason of physical condition due to a lack of repairs and maintenance, and has been so declared by any duly authorized public official.

#### **14.10 Abandonment of a Non-conforming Use**

The term abandonment as used herein shall mean the discontinuance of a non-conforming use for a specified period of time. The normal, seasonal cessation of a use, or a temporary discontinuance for purposes of maintenance, rebuilding after damage or destruction or maintenance or improvements permitted under this Section shall not be included in calculating the period of discontinuance. Any one of the following shall constitute evidence of the abandonment of a non-conforming use:

**14.10.1** In the case of a structure or of a structure and land in combination, the visible or otherwise apparent discontinuance of the use of a building, other structure or premises including the removal of characteristic equipment or furnishings used in the performance of the use without its replacement by similar equipment or furnishings within a period of twelve (12) months;

**14.10.2** In the case of non-conforming use of land, the cessation of such use for more than twelve (12) consecutive months; or

**14.10.3** In the case of a non-conforming structure which is destroyed due to fire or other casualty, the failure to commence restoration within one year of the date that the destruction occurred.

#### **14.11 Termination**

**14.11.1** The abandonment or destruction of a non-conforming structure, building, or use shall result in the termination of its non-conforming status.

## **Section 15 ADMINISTRATION & ENFORCEMENT**

### **15.1 Authority.**

The town shall, from time to time, establish and/or designate such boards, commissions, committees and officials as may be necessary and convenient for the proper administration and enforcement of this ordinance. Such boards, commissions, committees and officials shall have the authority, powers and duties as are authorized, conferred or imposed by state law and town ordinance. The Planning and Economic Development Coordinator (PEDC), the Building Code Enforcement Officer (BCEO) and the Zoning Code Enforcement Officer (ZCEO) are primarily responsible for the administration and enforcement of this ordinance.

### **15.2 Boards and Commissions Established.**

The following boards and commissions, with the following membership, are hereby established:

**15.2.1 Zoning Board of Adjustment (ZBA).** The ZBA shall consist of five (5) members and up to five (5) alternate members, all appointed by the Board of Selectmen. One of the members shall also be a member of the Planning Board. The ZBA shall elect a chair and other officers annually from among its members. The ZBA shall, from time to time, adopt rules of procedure, including the establishment of a regular meeting schedule, for the conduct of its business.

**15.2.2 Planning Board (PB).** The PB shall consist of seven (7) members and up to five (5) alternate members, all selected in accord with state law. The PB shall elect a chair and other officers annually from among its members. The PB shall, from time to time, promulgate and adopt rules of organization and procedure including the establishment of a regular meeting schedule.

**15.2.3 Historic District Commission (HDC).** The HDC shall consist of seven (7) members and up to three (3) alternate members, all selected in accord with state law. The HDC shall, from time to time, promulgate and adopt rules of organization and procedure.

### **15.3 Zoning Board of Adjustment.**

In accord with state law the ZBA shall hear and decide applications for variances from the terms of this ordinance, applications for special exceptions as allowed by this ordinance, appeals of decisions of an administrative official regarding the enforcement of this ordinance, applications for equitable waivers of dimensional requirements (current statutory reference: RSA 674:33-a), appeals of building permit denials regarding lots having no street frontage (current statutory reference: RSA 674:41), appeals of PB decisions based on this ordinance (current statutory reference: RSA 676:5), appeals of HDC decisions (current statutory reference: RSA 677:17) and such other matters as are allowed by law. The ZBA shall not have the power to permit any industrial use in a business district, nor any business use in a residential district, except as provided by this ordinance.

#### **15.3.1 Variances.**

**15.3.1.1** The ZBA may grant a variance only after it specifically finds that each of the following criteria exist:

**15.3.1.1.1** the variance will not result in the diminution in value of surrounding properties;

**15.3.1.1.2** granting the variance would be of benefit to the public interest;

**15.3.1.1.3** denial of the variance would result in unnecessary hardship to the owner seeking it;

**15.3.1.1.4** by granting the variance, substantial justice will be done; and

**15.3.1.1.5** the use is not contrary to the spirit of the ordinance.

**15.3.1.2** Flood Hazard Districts (FHD) - When the lot for which a variance is being requested is located in a FHD, the ZBA may grant the variance only if, in addition to the findings required by Section 15.3.1, it finds that each of the following criteria exist:

**15.3.1.2.1** The variance will not result in an increase in flood heights, additional threats to public safety or extraordinary public expense;

**15.3.1.2.2** The variance will not result in increased flood levels in the regulatory floodway during the base flood discharge; and

**15.3.1.2.3** The variance is the minimum necessary, considering the flood hazard, to afford relief.

**15.3.1.3** Burden of Persuasion - The applicant bears the burden of presenting evidence that is sufficient to enable the ZBA to reach conclusions and make findings sufficient to support the grant of a variance. No variance shall be granted unless the applicant presents such evidence.

**15.3.1.4** Conditions of Approval - In granting a variance the ZBA may impose such reasonable conditions, stipulations and safeguards including, but not limited to, the posting of a bond, as it deems necessary and proper to assure compliance with its ruling(s) and to satisfy the requirements of this ordinance. In granting variances in a FHD the ZBA shall obtain written acknowledgement from the applicant that construction below the base flood level will likely result in increased risk to life and property and increased premium rates for flood insurance.

## **15.3.2** Special Exceptions

**15.3.2.1** The ZBA may approve a special exception only after assuring that the requested

exception complies with the supplemental standards contained in this ordinance and specifically considering each of the following criteria:

**15.3.2.1.1** The specific site is an appropriate location for such exception;

**15.3.2.1.2** The exception will not adversely affect the neighborhood;

**15.3.2.1.3** The exception will not create a nuisance or a hazard to vehicles or pedestrians; and

**15.3.2.1.4** Adequate and appropriate facilities will be provided for the proper operation of the proposed exception.

**15.3.2.2** Burden of Persuasion - The applicant bears the burden of presenting evidence that is sufficient to enable the ZBA to reach conclusions and make findings sufficient to support the approval of a special exception. No special exception shall be approved unless the applicant presents such evidence.

**15.3.2.3** Conditions of Approval - In approving a special exception the ZBA may impose such reasonable conditions, stipulations and safeguards including, but not limited to, the posting of a bond, as it deems necessary and proper to assure compliance with its ruling(s) and to satisfy the requirements of this ordinance.

**15.3.3** Administrative Appeals - The ZBA may hear and consider appeals alleging that there is an error in any order, requirement, decision or determination made by an administrative official in the administration of the ordinance. The ZBA may affirm, reverse, or modify such order, requirement, decision or determination in whole or in part.

**15.3.3.1** Timing and Content of Appeal - A person aggrieved by such order, requirement, decision or determination may commence an appeal no later than thirty (30) days from receipt of the written order, requirement, decision or determination being complained about. Such an appeal shall be made on forms approved by the ZBA and shall specify each and every ground upon which the appeal is based.

**15.3.3.2** Burden of Persuasion - The administrative action being complained about shall be upheld unless the appellant presents evidence sufficient to justify the ZBA in reaching conclusions and making findings that support a reversal or modification of the order, requirement, decision or determination being complained about.

**15.3.4** Equitable Waiver of Dimensional Requirement - The ZBA shall hear and decide applications for a waiver of a dimensional requirement as authorized by, and subject to the conditions of, state law. The burden of proof to enable the ZBA to make the required findings shall be on the property owner. The current statutory reference for this authority and these conditions is New Hampshire RSA 674:33-a.

**15.3.5 Construction on a Lot Without Street Frontage** - The ZBA shall hear and decide appeals of denial(s) of building permit(s) based on the absence of frontage on an approved public street as authorized by, and subject to the conditions of, state law. The appellant shall be solely responsible for providing the required information to the ZBA. The current statutory reference for this authority and these conditions is New Hampshire RSA 674:41.

**15.3.6 Other Appeals** - The ZBA shall have jurisdiction of such other appeals as are required or permitted to be heard by state law or this ordinance. Such appeals shall be filed and considered in the same manner as administrative appeals and shall include, but are not limited to, the following.

**15.3.6.1 Certain Planning Board Determinations.** Appeals of a determination, statutory, construction, interpretation or application made by the PB that is based on the terms of this ordinance and is made in the exercise of the PB's subdivision or site plan review powers. PB decisions regarding an innovative land use control may only be appealed to the superior court. The current statutory reference for this requirement is New Hampshire RSA 676:5 III.

**15.3.6.2 Historic District Commission Decisions.** Appeals of HDC decisions involving the interpretation or application of Historic District regulations. Such appeals shall be filed and considered in the same manner as administrative appeals.

**15.3.6.3 Off Street Parking.** Appeals where off street parking cannot reasonably be provided on the same lot as the principal building or use. The ZBA may order that such parking be permitted on another lot provided that the other lot is not removed further than three hundred (300) feet from the lot on which the principal building or use is located.

**15.3.7 Appeal and Application Procedure.**

**15.3.7.1 Fees** - At the time of application, a non-refundable fee shall be submitted together with the application to cover the costs of the advertising, notification, and processing of the application as well as any special investigative studies deemed necessary by the ZBA.

**15.3.7.2 Deadline and Materials** – Other than administrative appeals, any request for ZBA action shall be filed no later than twenty-five (25) days prior to a regularly scheduled meeting. Such application shall include the appropriate application form fully filled out, a complete list of the names and addresses of all abutters and any other parties entitled to notification, all plans and supplemental information required by the matter to be considered and the appropriate fee. Administrative appeals shall be filed in accord with the requirements of sections 15.3.3.1 and 15.3.3.2.

**15.3.7.3 Notification** - A notice of a public hearing on an application shall be given not less than five (5) days before the date of the hearing by certified mail to the applicant, to

all immediate abutters, and to any holders of conservation, preservation, or agricultural preservation restrictions on the property. Where a property is under a condominium form of ownership, notice shall be given to the officers of the condominium association as provided in RSA 356-B, Condominium Act. Notice shall also be given to the Code Enforcement Officer, and to the Planning Board. A public notice shall be placed in a newspaper of general circulation in the Town of Goffstown, not less than five (5) days before the date of the hearing.

**15.3.7.4 Public Hearing** - The ZBA shall hold a public hearing on the application. At the public hearing, the ZBA shall hear or receive oral or written testimony from the applicant and all abutters, and any non-abutters who can demonstrate that they are directly affected by the application upon which the hearing is being held. Representations made at the public hearing or material submitted to the ZBA shall be deemed to be conditions of any subsequent decision of the ZBA. The ZBA may convene or reconvene the public hearing at the site of the proposed use in order to permit observations concerning the site to become part of the record of the hearing and decision by the ZBA.

**15.3.7.5 Report from the Planning Board** - The Zoning Board shall deliver to the Planning Board a copy of any application relating to (a) a commercial or industrial project or use, or (b) a residential use of three or more units for which site plan approval will be required, for the Planning Board's review and comment. Except in extraordinary circumstances requiring immediate action, the Zoning Board shall make no substantive decisions on the application until at least thirty (30) days thereafter. The Planning Board may submit a report or an advisory opinion to the ZBA, and may present testimony at the public hearing, on any application before the ZBA.

**15.3.7.6 Report from the Conservation Commission** - The Zoning Board shall deliver to the Conservation Commission a copy of any application relating to a variance request concerning wetlands setback, for the Conservation Commission's review and comment. Except in extraordinary circumstances requiring immediate action, the Zoning Board shall make no substantive decisions on the application until at least thirty (30) days thereafter. The Conservation Commission may submit a report or an advisory opinion to the ZBA, and may present testimony at the public hearing, on any application before the ZBA.

**15.3.7.7 Action on the Application** - The ZBA shall approve, deny, or approve with conditions, each application upon which a hearing has been held. Action on the application may be tabled by the ZBA from the date of the hearing to another meeting of the ZBA. A concurring vote of three members of the ZBA shall be necessary for a decision on an application.

**15.3.7.8 Rehearing** - Within thirty (30) days after a decision of the ZBA, any party to the action or any person directly affected thereby may apply for a rehearing in respect to any matter determined in the decision, and must specify such grounds in the motion for rehearing. The ZBA may grant a rehearing if, in the opinion of the ZBA, there is good



reason for such based on the grounds specified in the motion.

**15.3.7.9 Subsequent Applications** - Once an application has been denied by the ZBA, the same application may be considered as a new application by the ZBA if, and only if, the ZBA finds that the new application is materially different in nature and degree from the use or circumstances affecting the property that was considered in the prior application. The applicant bears the burden of providing evidence sufficient to allow the ZBA to find that a material change in circumstance has occurred such that the application should be considered as a new application.

**15.3.7.10 Appeal to Superior Court** - No appeal from any decision of the ZBA may be taken to the Superior Court unless the appellant has first made application for a rehearing as provided above.

## **15.4 Planning Board.**

The PB shall have the authority to grant conditional use permits (current statutory reference: RSA 674:21), regulate the subdivision of land (current statutory reference: RSA 674:35), review and act upon site plans (current statutory reference: RSA 674:43) and consider and act upon such other matters as may be provided for by state law or this ordinance.

**15.4.1 Conditional Use Permits** - The following procedures and requirements shall apply to the consideration of conditional use permits:

**15.4.1.1 Application and Review** - An application for approval of a conditional use permit shall be filed with the Planning Board. The application and review procedure for conditional use permits shall be in accordance with the requirements of the Site Plan Regulations with respect to the content of applications, requirements for public notice, holding of public hearings, and the timing of decisions by the Planning Board.

**15.4.1.2 Burden of Persuasion** - The applicant bears the burden of persuasion, through the introduction of evidence through testimony or otherwise, that the development, as proposed, will comply with this Section and will satisfy the specific requirements for the use contained in this Ordinance.

**15.4.1.3 Standards of Review** - In reviewing an application for a conditional use permit, the Planning Board shall consider the following information in its deliberations, as applicable to the case:

**15.4.1.3.1** The use requested is specifically authorized in Section 3, Allowable Uses in Zoning Districts, or otherwise as provided in this Ordinance;

**15.4.1.3.2** The compliance of the development plan for the proposed use with the specific standards for such use including, but not limited to, those standards contained in Section 5, Supplemental Standards; and

**15.4.1.3.3** Testimony and evidence introduced at the public hearing on the application.

**15.4.1.4** Hearing and Decision - Following a public hearing, the Planning Board shall act to approve the application, deny it, or approve it with conditions, and within seventy-two (72) hours after a vote on an application, shall issue a written record of the decision which shall be available for public inspection at its office. The record of decision shall state whether the application was approved or denied, include any conditions if approved, and in the event of disapproval, state the reasons for the decision. Planning Board shall approve an application for a conditional use permit if it finds, based on the information and testimony submitted with respect to the application, that:

**15.4.1.4.1** The use is specifically authorized in the Ordinance as a conditional use;

**15.4.1.4.2** If completed as proposed by the applicant, the development in its proposed location will comply with all requirements of this Section, and with the specific conditions or standards established in this Ordinance for the particular use;

**15.4.1.4.3** The use will be compatible with the neighborhood and with adjoining or abutting uses in the area in which it is to be located;

**15.4.1.4.4** The use will not have a substantial adverse impact on vehicular or pedestrian safety;

**15.4.1.4.5** The use will not have a substantial adverse impact on the appearance and visual quality of the surrounding neighborhood. In evaluating visual impact, the Planning Board may consider architectural and design elements; and

**15.4.1.4.6** The use will be adequately serviced by necessary public utilities and by community facilities and services of a sufficient capacity to ensure the proper operation of the proposed use.

**15.4.1.5** Stipulations of Approval - In granting a conditional use permit application, the Planning Board may attach reasonable conditions to its approval, including but not limited to the phasing of a development, where such conditions are shown to be necessary to further the objectives of this Ordinance or the Master Plan, or which would otherwise allow the general conditions of this Section to be satisfied. Representations made at a public hearing or in material submitted to the Planning Board by an applicant in order to obtain a conditional use permit shall be deemed to be conditions of the issuance of the permit. The Planning Board may require that conditions of approval be annotated on a site plan or subdivision plat, or otherwise recorded at the Hillsborough County Registry of Deeds.

**15.4.1.5.1 Appeals** - Any persons aggrieved by a Planning Board decision on a conditional use permit may appeal that decision to the Superior Court in the manner provided by RSA 677:15, Court Review. A Planning Board decision on the issuance of a conditional use permit cannot be appealed to the Zoning Board of Adjustment in accordance with RSA 676:5, III, Appeals to the Board of Adjustment.

**15.4.2 Subdivision Approval and Site Plan Review** - The application procedure and the standards for review and action upon subdivisions and site plans are specified in the current edition of the Goffstown Subdivision and Site Plan Review Regulations. The PB shall review and act upon site plans for the development, modification and/or expansion of non-residential and multi-family residential uses as provided for by state law. Within the Site Plan Review process, the Planning Board may consider architectural and design elements in order to address compatibility with other development in the area and the goals of this ordinance and visual impact on abutting properties and on the public.

## **15.5 Historic District Commission**

A certificate of appropriateness from the HDC, as provided for by this ordinance, is required prior to the issuance of a permit for any construction, demolition or other activity, which will affect the exterior appearance of a structure or site. Such certificate shall be applied for, and reviewed by the HDC, in accord with the requirements of the current edition of the Goffstown Historic District Regulations. If a permit has not been acted upon within six (6) months of the issuance of a certificate of appropriateness, or if all permitted work has not been completed within two (2) years of that issuance, then the certificate shall expire and the HDC decision shall be null and void.

## **15.6 Building Code Enforcement Officer (BCEO)**

The BCEO shall interpret, administer and enforce the provisions of the Building, Electrical, Mechanical and Plumbing Codes and perform such other duties as may be assigned. That officer is authorized to establish such administrative requirements, procedures and forms as may be reasonably necessary to obtain such information as will enable the proper and effective enforcement of those code requirements applicable to any proposed or ongoing construction activity. No building permit shall issue until the applicant has secured all approvals required by state law, the applicable code(s) and/or this ordinance and that compliance has been verified. The BCEO is additionally authorized to consider applications and issue permits for the use of a manufactured home as a temporary residence in lieu of a single family home which has been rendered uninhabitable by fire explosion or other accidental or natural disaster. Such use shall only be permitted subject to state and local requirements for water supply and sewage disposal. No manufactured home placed on a lot pursuant to this provision shall attain the status of a vested nonconforming use. All such homes shall be removed from the premises upon completion of repairs to the residence, the issuance of a certificate of occupancy for the permanent residence or the passage of twelve (12) months, whichever event shall first occur.

### **15.7 Zoning Code Enforcement Officer (ZCEO)**

The ZCEO shall interpret, administer and enforce the provisions of this ordinance and perform such other duties as may be assigned. That officer is authorized to establish such administrative requirements, procedures and forms as may be reasonably necessary to obtain such information as will enable the proper and effective enforcement of the ordinance. Included within the enforcement of this ordinance is enforcement of the specific conditions of approval attached to any action of the ZBA, PB or HDC.

### **15.8 Violations**

Whenever a violation of this ordinance occurs or is alleged to have occurred, a complaint stating fully the cause and/or basis therefor may be filed with the ZCEO by any person. Such complaint shall be recorded in the ZCEO's office and shall be investigated. Upon the determination that a violation actually exists the ZCEO shall take such action as will lead to the correction of that violation. Such action may include, but is not limited to, oral and/or written notices of violation and the filing of the appropriate complaint or other pleading in a court having jurisdiction of the matter. Appropriate fines and/or civil penalties or other sanction or penalty may be sought in connection with any such court proceeding.

## **Section 16 IMPACT FEES FOR PUBLIC CAPITAL FACILITIES**

### **16.1 Authority and Applicability**

**16.1.1** This Article is authorized by New Hampshire RSA 674:21 as an innovative land use control. The administration of this Article shall be the responsibility of the Planning Board. This Article, as well as regulations and studies adopted by the Planning Board consistent with and in furtherance of this Article, shall govern the assessment of impact fees imposed upon new development in order to meet the needs occasioned by that development for the construction or improvement of capital facilities owned or operated by the Town of Goffstown or the Goffstown School District.

**16.1.2** The public facilities for which impact fees may be assessed in Goffstown may include water treatment and distribution facilities; waste water treatment and disposal facilities; sanitary sewer; storm water, drainage and flood control facilities; public road systems and rights-of-way; municipal office facilities; public school facilities; public safety facilities; solid waste collection, transfer, recycling, processing and disposal facilities; public library facilities; and public recreation facilities not including public open space.

**16.1.3** Prior to assessing an impact fee for one or more of the public facilities enumerated above, the Planning Board shall have adopted such studies or methodologies and related fee schedules that provide for a process or method of calculating the proportionate share of capital improvement costs that are attributable to new development. Such calculations shall reasonably reflect the capital cost associated with the increased demand placed on capital facility capacity by new development.

**16.1.4** The following regulations shall govern the assessment of impact fees for public capital facilities in order to accommodate increased demand on the capacity of these facilities due to new development.

### **16.2 Findings**

The Town of Goffstown hereby finds that:

**16.2.1** The Town of Goffstown is responsible for and committed to the provision of public facilities and services at standards determined by the Town to be necessary to support development in a manner which protects and promotes the public health, safety and welfare;

**16.2.2** Capital facilities have been and will be provided by the Town utilizing funds allocated through the Capital Improvements Program, which has been adopted and regularly updated by the Planning Board;

**16.2.3** An impact fee ordinance for capital facilities is consistent with the goals and objectives of the Master Plan and the Capital Improvements Program of the Town of Goffstown;

**16.2.4** New development in Goffstown will create the need for the construction, equipping, or expansion of public capital facilities in order to provide adequate facilities and services for its residents;

**16.2.5** Impact fees may be used to assess an equitable share of the growth-related cost of public facility capacity to new development in proportion to the facility demands created by that development;

**16.2.6** In the absence of impact fees, anticipated residential and non-residential growth and associated capital improvement costs could necessitate an excessive expenditure of public funds in order to maintain adequate facility standards and to promote and protect the public health, safety, and welfare;

**16.2.7** Impact fees assessed pursuant to this Article will not exceed the costs of:

**16.2.7.1** Providing additional public capital facilities necessitated by new development in Goffstown; and/or

**16.2.7.2** Compensating the town of Goffstown or the Goffstown School District for facility capacity that it provided in anticipation of new development in Goffstown.

### **16.3 Definitions**

**16.3.1** Feepayer. The applicant for the issuance of a permit that would create new development as defined in this Article.

**16.3.2** Gross Floor Area. The sum of the areas of all floors of main and accessory buildings on the lot as measured to the outside surfaces of the exterior walls. The gross floor area shall include basements, lobbies, and stair openings, elevator shafts and storage. The gross floor area shall exclude open wells (atriums), mechanical rooms, crawl spaces and attics without floors, attics used only for mechanical services, porches, balconies and open-sided roofed-over areas

**16.3.3** New Development. An activity that results in:

**16.3.3.1** The creation of a new dwelling unit or units; or

**16.3.3.2** The conversion of a legally existing use, or additions thereto, which would result in a net increase in the number of dwelling units; or

**16.3.3.2.1** Construction resulting in a net increase in the gross floor area of any

non-residential building; or

**16.3.3.2.2** The conversion of an existing use to another use if such change creates a net increase in the demand on public capital facilities that are the subject of impact fee assessment methodologies adopted by the Planning Board.

New development shall not include the replacement of an existing mobile home, or the reconstruction of a structure that has been destroyed by fire or natural disaster where there is no change in its size, density or type of use, and where there is no net increase in demand on the capital facilities of the town of Goffstown.

#### **16.4 Computation of Impact Fee**

**16.4.1** The amount of each impact fee shall be assessed in accordance with written procedures or methodologies adopted and amended by the Planning Board for the purpose of capital facility impact fee assessment in Goffstown. These methodologies shall set forth the assumptions and formulas comprising the basis for impact fee assessment, and shall include documentation of the procedures and calculations used to establish impact fee schedules. The amount of any impact fee shall be computed based on the municipal capital improvement cost of providing adequate facility capacity to serve new development. Such documentation shall be available for public inspection at the Office of the Selectmen of the Town of Goffstown.

**16.4.2** In the case of new development created by the conversion or modification of an existing use, the impact fee assessed shall be computed based upon the net increase in the impact fee assessment for the new use as compared to the highest impact fee that was, or would have been, assessed for the previous use in existence on or after the effective date of this Article.

#### **16.5 Assessment of Impact Fees**

**16.5.1** Impact fees shall be assessed on new development to compensate the Town of Goffstown for the proportional share of the public capital facility costs generated by that development.

**16.5.2** Any person who seeks a permit for new development, including permits for new or modified service connections to the public water system or public wastewater disposal system that would increase the demand on the capacity of those systems, is hereby required to pay the public capital facility impact fees authorized under this Article in the manner set forth herein, except where all or part of the fees are waived in accordance with the criteria for waivers established in this Article.

#### **16.6 Waivers**

**16.6.1** The Planning Board may grant full or partial waivers of impact fees where the Board finds that one or more of the following criteria are met with respect to the particular capital facilities for which impact fees are normally assessed.

**16.6.2** A person may request a full or partial waiver of school facility impact fees for those residential units that are lawfully restricted to occupancy by senior citizens age 62 or over or to households with at least one person age 55 and over as applicable, in a development that is maintained in compliance with the provisions of RSA 354-A:15, Housing For Older Persons. The Planning Board may waive school impact fee assessments on age-restricted units where it finds that the property will be bound by lawful deeded restrictions on occupancy for a period of at least 20 years.

**16.6.3** The Planning Board may agree to waive all or part of an impact fee assessment and accept in lieu of a cash payment, a proposed contribution of real property or facility improvements of equivalent value and utility to the public. Prior to acting on a request for a waiver of impact fees under this provision that would involve a contribution of real property or the construction of capital facilities, the Planning Board shall submit a copy of the waiver request to the Board of Selectmen for its review and consent prior to its acceptance of the proposed contribution. The value of contributions or improvements shall be credited only toward facilities of like kind, and may not be credited to other categories of impact fee assessment. Full or partial waivers may not be based on the value of exactions for on-site or off-site improvements required by the Planning Board as a result of subdivision or site plan review, and which would be required of the developer regardless of the impact fee assessments authorized by this Article.

**16.6.4** The Planning Board may waive an impact fee assessment for a particular capital facility where it finds that the subject property has previously been assessed for its proportionate share of public capital facility impacts, or has contributed payments or constructed capital facility capacity improvements equivalent in value to the dollar amount of the fee(s) waived.

**16.6.5** The Planning Board may waive an impact fee assessment where it finds that, due to conditions specific to a development agreement, or other written conditions or lawful restrictions applicable to the subject property, the development will not increase the demand on the capacity of the capital facility or system for which the impact fee is being assessed.

**16.6.6** A feepayer may request a full or partial waiver of the amount of the impact fee for a particular development based on the results of an independent study of the demand on capital facility capacity and related costs attributable to that development. In support of such request, the feepayer shall prepare and submit to the Planning Board an independent fee calculation or other relevant study and supporting documentation of the capital facility impact of the proposed development. The independent calculation or study shall set forth the specific reasons for departing from the methodologies and schedules adopted by the Town. The Planning Board shall review such study and render its decision. All



costs incurred by the Town for the review of such study, including consultant and counsel fees, shall be paid by the feepayer.

## **16.7 Payment of Impact Fee**

**16.7.1** No permit shall be issued for new development as defined in this Article until the impact fee has been assessed by the Building Inspector. The Building Inspector shall not issue a certificate of occupancy for the development on which the fee is assessed until the impact fee has been paid in full, or has been waived by the Planning Board. In the interim between assessment and collection, the Planning Board may authorize another mutually acceptable schedule for payment, or require the deposit of an irrevocable letter of credit or other acceptable performance and payment guarantee with the Town of Goffstown.

**16.7.2** Where off-site capital improvements have been constructed, or where such improvements will be constructed simultaneously with new development, and where the Town has appropriated necessary funds to cover such portions of the work for which it will be responsible, the Building Inspector may collect the impact fee for such capital facilities at the time a building permit or a permit to connect to the public water or public wastewater system, is issued.

## **16.8 Appeals Under this Section**

**16.8.1** A party aggrieved by a decision made by the Building Inspector pursuant to the assessment or collection of impact fees authorized by this Article may appeal such decision to the Zoning Board of Adjustment as provided by RSA 676:5, as amended;

**16.8.2** The decision of the Zoning Board of Adjustment may be appealed to the Superior Court as provided by RSA 677:2-14.

**16.8.3** A party aggrieved by a decision of the Planning Board under this Article may appeal such decision to the Hillsborough County Superior Court as provided by RSA 676:5, III and RSA 677:15, as amended.

## **16.9 Administration of Funds Collected**

**16.9.1** All funds collected shall be properly identified and promptly transferred for deposit into separate impact fee accounts for each type of public capital facility for which impact fees are assessed. Each impact fee account shall be a non-lapsing special revenue fund account and under no circumstances shall such revenues accrue in the General Fund. The Town Treasurer shall have custody of all accounts, and shall pay out same upon approved vouchers through the accounts payable system.

**16.9.2** The Treasurer shall record all fees paid, by date of payment and the name of the person making payment, and shall maintain an updated record of the current ownership

and tax map reference number of properties for which fees have been paid under this Article for each permit so affected for a period of at least nine (9) years from the date of receipt of the impact fee payment associated with the issuance of each permit.

**16.9.3** Impact fees collected may be spent from time to time by order of the Board of Selectmen and shall be used solely for the reimbursement of the Town or the Goffstown School District in the case of school impact fees, for the cost of the public capital improvements for which they were collected, or to recoup the cost of capital improvements made by the Town or the Goffstown School District in anticipation of the needs for which the impact fee was collected.

**16.9.4** In the event that bonds or similar debt instruments have been or will be issued by the Town of Goffstown or the Goffstown School District for the funding of capacity-related improvements, impact fees from the appropriate related capital facility impact fee accounts may be applied to pay debt service on such bonds or similar debt instruments.

**16.9.5** At the end of each month, the Treasurer shall make a report giving a particular account of all impact fee transactions during that month. At the end of each fiscal year, the Treasurer shall make a report to the Board of Selectmen and Planning Board, giving a particular account of all impact fee transactions during the year.

## **16.10 Use of Funds**

**16.10.1** Funds withdrawn from the capital facility impact fee accounts shall be used solely for the purpose of acquiring, constructing, equipping, or making improvements to public capital facilities to increase their capacity, or to recoup the cost of such capacity improvements.

**16.10.2** Effective upon passage of this Article, the annual updates of the Goffstown Capital Improvement Program shall contain a procedure for assigning funds, including any accrued interest, from all of the public capital facility accounts to specific capital improvement projects, related expenditures or debt service.

**16.10.3** Impact fee monies, including any accrued interest, that are not assigned in any fiscal period shall be retained within the same public capital facilities impact fee account until the next fiscal period except where a refund is due.

**16.10.4** Funds may be used to provide refunds consistent with the provisions of this Article.

## **16.11 Refund of Fees Paid**

**16.11.1** The current owner of record of property for which an impact fee has been paid shall be entitled to a refund of that fee, plus accrued interest where:

**16.11.1.1** The impact fee has not been encumbered or legally bound to be spent for the purpose for which it was collected within a period of six (6) years from the date of the full and final payment of the fee; or

**16.11.1.2** The Town, or in the case of school impact fees the Goffstown School District, has failed, within the period of six (6) years from the date of the full and final payment of such fee, to appropriate any of the non-impact fee share of related capital improvement costs thereby permitting the capital improvement or capital improvement program for which the impact fee was collected to be commenced. If any capital improvement or capital improvement program for which an impact fee is collected has been commenced either prior to, or within six years from the date of final collection of an impact fee, that impact fee payment shall be deemed to be encumbered and legally bound to be spent for said capital improvement or capital improvement program and shall not be refunded, even if it is not fully expended within the six year period.

**16.11.1.3** The Board of Selectmen shall provide all owners of record who are due a refund written notice of the amount due, including accrued interest, if any, and shall promptly cause said refund to be made.

## **16.12 Additional Assessments**

Payment of the impact fee under this Article does not restrict the Town or the Planning Board from requiring other payments from the feepayer, including such payments relating to the cost of the extension of water and sewer mains or the construction of roads or streets or other infrastructure and public capital facilities specifically benefiting the development as required by the subdivision or site plan review regulations, or as otherwise authorized by law.

## **16.13 Scattered or Premature Development**

Nothing in this Article shall be construed so as to limit the existing authority of the Goffstown Planning Board to deny new proposed development which is scattered or premature, requires an excessive expenditure of public funds, or otherwise violates the Town of Goffstown Zoning Ordinance, or the Goffstown Planning Board Site Plan Review Regulations or Subdivision Regulations, or which may otherwise be lawfully denied.

## **16.14 Review and Change in Method of Assessment**

The methodologies adopted by the Planning Board for impact fee assessment, and the associated fee schedules, shall be reviewed periodically and amended as necessary by the

Planning Board. Such review shall take place not more than five years from the initial adoption of this Article, nor more frequently than annually, except as required to correct errors or inconsistencies in the assessment formula and shall be reviewed at least every five years hereafter. Any proposal for changes in the impact fee assessment methodology or the associated fee schedule shall be submitted to the Board of Selectmen for its review and comment prior to final consideration of the proposed changes by the Planning Board. The review by the Planning Board and Board of Selectmen may result in recommended changes or adjustments to the methodology and related fees based on the most recent data as may be available. No change in the methodology or in the impact fee schedules shall be adopted by the Planning Board until it shall have been the subject of a public hearing noticed in accordance with RSA 675:7.

## **Section 17 AMENDMENTS**

### **17.1 Authority**

Pursuant to RSA 674:16, Grant of Power, the Governing Body may amend this Ordinance in accordance with the procedures specified in RSA 675, Enactment and Adoption Procedures.

### **17.2 Procedure on Amendments**

**17.2.1** Proposed amendments, however initiated, shall first be submitted to the Planning Board for its consideration and recommendations.

**17.2.2** The Planning Board shall hold at least one public hearing on the proposed amendment or amendments, the first hearing not less than twenty (20) days after receiving the proposal, and shall fix the time and place of said hearings.

**17.2.3** At least fifteen (15) days before each hearing, the Town Clerk shall advertise the date, time, place, and purpose of the hearing in a newspaper of general circulation in the Town of Goffstown.